

NEWINGTON CONSERVATION COMMISSION

Special Meeting

February 26, 2013

I. CALL TO ORDER

Chairman Block called the Special Meeting of the Newington Conservation Commission meeting to order at 7:00 p.m.

II. ROLL CALL

In attendance:

Philip Block, Chairman
John Igielski, Secretary
Jeffrey Zelek, Vice-Chairman
Andreas Sadil, Member
Kathleen Clark, Member
Alan Paskevich, Alternate sitting for the vacant position

Peter Arburr, Chris Greenlaw, Town Engineer, Peter Boorman, Town Attorney.

III. ACCEPTANCE OF MINUTES

Chairman Block: We have the minutes for the meeting of February 19th which was our regular meeting.

Attorney Boorman: You actually should do the minutes of February 14th first.

Chairman Block: I'm sorry, are there any changes to the minutes of February 14th. Is everybody ready to vote on them?

Commissioner Zelek moved to accept the minutes of the February 14, 2012 meeting. The motion was seconded by Commissioner Sadil.

Chairman Block: Do you have any questions John?

Commissioner Igielski: I was just going to suggest the Chair ask for a vote on the motion.

The vote was unanimously in favor of the motion, with six voting YES.

Chairman Block: Now it's to the minutes of February 19th, any corrections or additions on those?

Commissioner Zelek: I have not had a chance to review.

Commissioner Paskewich: Neither have I.

Chairman Block: Then a motion to table them?

Commissioner Sadil moved to table the minutes of the February 19, 2013 minutes. The motion was seconded by Commissioner Zelek. The vote was unanimously in favor of the motion with six voting YES.

IV. **PUBLIC PARTICIPATION ON NON-AGENDA ITEMS** (Each speaker limited to two minutes.)

None.

V. **OLD BUSINESS**

A. Application 2012-22 Russell Road north of Old Highway

Chairman Block: The first question that I would like to ask, does anybody have any issues they wish to discuss regarding the four categories that we divided this application into. Oh, before we do that, you need to qualify yourself as ready to participate.

Commissioner Clark: Yes, I have, I looked at the minutes on line, and then they were available on Monday, and I read them all, the minutes of February 19th.

Chairman Block: You're familiar and you feel confident voting?

Commissioner Clark: Yes I do.

Chairman Block: Thank you. Now, are there any unresolved issues as to the four categories.

Commissioner Igielski: In reviewing all of the information over the weekend, I came up with a question which I conveyed to our staff Mr. Greenlaw and asked him to refer to Mr. Boorman, our Town Attorney, and at this time I would ask if Mr. Boorman had any comments regarding.

Chairman Block: What was the question?

Commissioner Igielski: The question that I posed to Mr. Boorman was to ask him to comment on State Statute 22A-41C, which is covered in our regulations in Section 10.5.

Attorney Boorman: If I can, for those of you who don't have the regulations in front of you, I'm just going to read quickly because it is not very long. For purposes of this section, which is the section of Inland Wetlands determination on applications, wetlands or water courses include aquatic, plant or animal life and habitats in wetlands or water courses and habitats means areas or environments in which the organism for biological population normally lives, or occurs. This follows the statutory changes that happened a couple of years ago, the legislature decided to expand the definition of wetlands for general applications that come before you, and so they included issues as to aquatic, plant or animal life and also habitats in their definition of wetlands. I think we have mentioned this before. A more pertinent section that applies to this application is under 10.6. so again, for those who don't have it in front of you, I'd just like to take a moment to read that. The Agency, the Inland Wetlands Agency, shall not deny or condition an application for regulated activity in an area outside wetlands or water courses on the basis of an impact or affect on aquatic, plant or animal life unless such an activity would likely impact or affect the physical characteristics of such wetlands or watercourses. Thereby, both on the regulation front and the statutory front incorporating the Avalon Bay process that we talked about on several occasions. So specifically, because this application is for an project that is outside of the wetlands, outside of the review area, 10.6 would apply to any denial if you folks go in that direction as we have said from the beginning of this process. 10.5 talks about applications that would be inside the wetlands, applications for disturbance inside the wetlands or inside the review area, but there is a distinction in law that we have talked about before that this application is not one that you see all the time in Inland Wetlands applications because of the fact that it is outside of the wetlands, and that makes a difference in terms of the activity. I hope that answers your question.

Chairman Block: Does anyone else have a issue on this?

Commissioner Paskewich: On what?

Chairman Block: On how, on your understanding as to these two sections of our regulations and the statute.

Commissioner Paskewich: I guess they are subject to interpretation by anyone else as well.

Chairman Block: Okay, again, I think the issue, and Attorney Boorman, please correct me if I'm wrong, but 10.6, it says that if the regulated activity outside of the wetlands, okay, has to be likely to impact or affect the physical characteristics within the wetlands, so you can't argue that, for example, the physical blasting outside of the wetlands, is a reason for denial. You would have to be able show in the record that the blasting outside the wetlands is going to intrude and change the physical characteristics within the wetlands, so they have to cross that boundary line, and it has to be a likely change. Am I correct?

Attorney Boorman: That's correct and really kind of more directs towards issues that revolve around animal life or plant life, and remember, the word likely has been defined for us in terms of requiring expert testimony to back up any determination that such physical characteristics affect the wetland, has to be supported by expert testimony, so I'll just remind you of that also.

Chairman Block: So again, I just want to make sure that we have it clear. Does anybody have any issues that have not been explored during our deliberations of the four subjects.

Commissioner Clark: I sent Chris an e-mail today that he was going to send to Mr. Boorman, and my concern is that the applicant has provided us with a document called Declaration of Newington Walk, and another document that, the Conservation Easement Document. In the Declaration of Newington Walk.....

Chairman Block: Excuse me, do you have the record numbers of those two?

Commissioner Clark: It would have come right from Toll, correct? I'm sorry, I can't find them.

Chairman Block: In the left hand margin, there are numbers.

Commissioner Clark: I know that part, I just got a copy of it and didn't match it up. It should be dated because it was received January 24th, wouldn't that do it? Oh, I see, it came from Mark Branse, I didn't know it came from Mark Branse.

Attorney Boorman: Mark Branse is the attorney from Wethersfield.

Commissioner Clark: I understand that, I just thought that this came from, so the only declaration that we have is the one that was, so that's another question, so the only declaration that we have from Newington Walk is one that was put together at the request of Wethersfield.

Attorney Boorman: It was at the request of Wethersfield that they proceeded down that line, that's right.

Commissioner Clark: All right. But we are using it as if, we're using it as something going forward, how they are going to conduct themselves, with this development.

Attorney Boorman: Yes.

Commissioner Clark: In there, on page 2, Item C.....

Attorney Boorman: Now there are two documents, are you talking about the declaration?

Commissioner Clark: I'm just talking about the declaration, so let's just, I think I can make my point just leading us to the declaration, I guess, so let's start at the bottom of page one, item one, "Once the declarant has sold all the lots in the subdivision, the Association shall carry out the following activities in the subdivision; and we will go to C, the enforcement of covenants and restrictions and there is also a further reference to covenants and restrictions in Item 2, where it just says, the Association shall have the power and authority to enforce the covenants and restrictions of Newington Walk. The covenants and restrictions, to be prepared.

Attorney Boorman: Let me talk to you about how these things work, in terms of, in the order that they come in. What this refers to is the anticipation that there will be an Association, so one of the requirements or conditions that should be reflected is the fact that this body, if they decide to go with approval of conditions, would indicate that there would be a home owners association once the lots are sold. Home owner associations don't come into affect until the declarant is done. The declarant is Toll Brothers. So what they do is, they have x amount of lots, they sell lots, and once they sell their last lot typically, then what they do is they turn over their control to the home owners association, so before the home owners association is created, Toll Brothers as the developer is in charge of the project. Once the project is complete, and they sell their last lot, they no longer have an interest in it, and they turn it over to a home owners association. The home owners association is created specifically for this project for the reasons that came from Attorney Branse as well as the questions that this body had continuing monitoring of the situation, and so that home owners association is not created by this particular declaration, this is a format, a template of what will happen sometime in the future when it is time when it's time to cross that bridge, when it's time to say that no longer will Toll Brothers be in charge, it will be time for the home owners association to be in charge. So, what we are doing is indicating if again, you approve with conditions, that this format, this template will be followed for purposes of establishing the home owners association. When it is established and it will include covenants and restrictions that will go along and have nothing to do with our situation, but we're specifying what our situation is. So that is why you wouldn't have a list of restrictions and covenants right now because that would be more boiler plate for the purposes of the home owners association. It doesn't have anything to do with this approval. That's totally separate. The home owners association is not just because we've asked for it, it's going to be required anyway, whether there was an Inland Wetland condition associated with it or not. Same thing for the covenants that run with the land, those covenants should be put into place, they should be incorporated as conditions if you decide to approve, to make sure that that template is followed. I hope that, I think what I hear from you is that you expect it to be done now, so they would submit it now for a final, and we've only got something that is not final, and that's a legitimate question, but the actual forms themselves would not be filed until they get to that spot, which could be a year or two or three down the road depending on when the project is completed and they sell their last lot.

Commissioner Clark: But at that time, if those covenants and restrictions do not follow the conditions, if it's that far down the road, that our conditions could be violated....

Attorney Boorman: Your conditions could be violated on day one, or on day one hundred or in year one hundred. What this does is to provide protection to say to you that who ever is in charge of that land, from now in perpetuity must follow these conditions. So initially Toll Brothers is going to be in charge, we know that. They are the builder, they are the developer, they are the ones that are going to do this if this project goes forward, and you want them on the hook for your conditions. We recognize that there will be individual owners that will own individual pieces of property, individual lots, they're on the hook, according to these documents, once they purchase,

through their deed, as well as through the home owners association documents, but it won't just be the individual home owners, it will be the entire home owners association that will be on the hook, so it's covering it for those entities that we know are going to be there some time in the future, whether it's one owner that buys lot number whatever, or fifty years from now, that same owner sells it to someone else, they will still be bound by your conditions, as applicable, I mean, if the conditions are done, completed, obviously they just fall away, but anything that would go forward in terms of perpetuity that would go in accordance with first, Toll Brothers as developer, second the home owners association, and third the lot owners. So it allows enforcement on all those levels and it carries you through perpetuity.

Commissioner Clark: So the conditions can be, the conditions can not contain clauses that are unenforceable, or bizarre, I think you used that word.

Attorney Boorman: Unenforceable, bizarre, unreasonable is probably the better way of putting it. They can't be unreasonable conditions.

Commissioner Clark: So, I'm going to ask, so this is the declaration that was created on Wethersfield's behalf. Earlier I raised an issue about, and just tell me where this fits within our purview, an issue about the, and this would be item on page 3, Item 9, talking about their reserve account, and each lot sold is going to be paying \$125.00 to maintain the basins, and I felt that that was wildly, let's say, unreasonably low by orders of magnitude, do we have any recourse to change that at this point? Or does this have to go into the conditions? Is that the only other thing that, denied on the basis of that one item, versus adding that to conditions?

Attorney Boorman: You could add to conditions and indicate that you want to change the amounts, if that's what you are asking, it sounds like that is what you are asking, so the answer is, you could condition it upon that. The question that would be there, would be, are your conditions reasonable, so if the applicant got approval and it was a conditional approval, and decided that they were unhappy with that particular condition, they could appeal that particular condition, bring it to a court, say this is unreasonable, and this is why. The Town would then defend why it is not unreasonable and why it is appropriate. So, that's there. I do also want to point out, in that Section 9, that they talk about it's funded by a payment of \$125.00 for each house lot sold. At no time shall the reserve have a balance of less than \$5,000.00 in it. Now that was negotiated between Wethersfield and Toll Brothers to say that that was an appropriate number and they felt comfortable with that. That doesn't mean that you have to feel comfortable with that, so you can change that number. I'm going to jump down to the last sentence under number nine, it starts on the end and says, exceeds five years and then the full sentence says, the Association may impose a special assessment against lot owners in order to replenish the reserve account. That means that the home owners association has an obligation to make sure that they follow those conditions. They are coming up with what they think they need to do that. If they're wrong, if they're short, then they still need to go to their owners and say, we're short, you have to cough up more money by way of a special assessment. This happens with condominiums for example, projects, special assessments come out all of the time, and it's part of the condo documents and home owners association there, in which there is a special assessment that is given for a variety of things, the ones that come to mind, repair of decks, repair of roofs, siding, those special assessments come out periodically and it's on top of the normal assessment that comes out for the home owners association. This follows that pattern, if you will to say, we want the flexibility here to say, that these numbers are not appropriate, they are not significant enough, the home owners association is still on the hook. They still have to take care of the conditions even if this money is not available, they have to find a way to get it, and a special assessment is the way that they can get it under the document.

Commissioner Clark: But the home owners cannot say, we think that is inappropriate, and I'm not paying to fix my bio-swale.

Attorney Boorman: If they do that, then the home owners is left with the ability to take them to court and sue them and actually they can foreclose on the actual lot in terms of taking it away from them and then turning around and selling it and they will get their money that way. So the answer is any owner of the lot can say, I don't think this is fair, I don't want to pay it, then the home owners association can say, we are doing this for all members of the association, and all members have to pay this. If they don't like it, they are entitled to not like it, but they are going to have to deal with the home owners association in terms of the legal ramifications of deciding not to pay.

Chairman Block: Also, thought, if you read that document carefully, as it was originally proposed it was to deal with the planting of the trees along Russell Road for the most part. The question that I proposed at the prior meeting was whether or not this Commission wanted to expand that to include the maintenance and repair of those systems which are intended to protect the wetlands themselves, i.e., you mentioned the bio-swales. And, if so, we need to be able to articulate our concern as to maintaining the physical characteristics of the wetlands, i.e., that the bio-swales keep out the pollutants and toxic chemicals, and the question then comes, in terms of what you were asking, is a maximum funding of \$5,000.00 adequate to the scope of that task, or any other task that you want to charge underneath this declaration. So the thing is that we have only a scarcity of information as to how much those bio-swales are going to cost to construct, or how much, what type of maintenance they will require, and the question is, is the maximum funding of \$5,000.00 adequate and if not, how much is, and as you have been told, is that going to have to be an individual special assessment that the home owners association makes at a future time. So that comes down to whether or not the language that's in the declaration as it now stands meet the concerns that we have.

Commissioner Paskewich: I'd like to expand on that a little, and I'll refer to the Town Engineer regarding this, the question is, there are engineering designs for these storm water management systems, i.e., bio-swales, bio-retention, level spreaders, and such, is there also maintenance schedules recommended for these systems in writing somewhere regarding their designs and the obsolesce and how to maintain them so that their physical obsolesce is reduced?

Chris Greenlaw: Various questions within that one question, yes, sheet GN, I believe two of the plans speak directly as far as the treatment train, who is responsible for what in the treatment train, when hydro-dynamic separators should be cleaned as it speaks to tss. As far as the bio-swales themselves, I would have to check on that as far as pollutant control but definitely I believe it is sheet GN-2 and I believe there is a table listed on that sheet, and I would ask you to look at that as far as the schedule, and then look at the notes along with it, we can definitely look into that.

Commissioner Clark: Same thing, I had looked into that myself, as far as maintenance and there were a few things, I believe that REMA made recommendations on maintenance of bio-retention products, structures, which included examining them immediately if you had a rain fall of over a certain amount, like one inch, but other than that, you only looked at them once a year and that seemed very inconsistent to me that you would, you meaning somebody, would go rushing right out and examining the thing when it rained, an amount of rain that is not unusual, and yet the planned maintenance was a much wider period of time. Again, at this stage of deliberation, is it nit-picking, or is it critical because that will, to be the crux of the biscuit, of what is going to protect the physical characteristics of the wetland is the proper maintenance in perpetuity of these structures, and I don't see enough in here, other than REMA's suggestions, on how to do this and I don't know where to go with that.

Attorney Boorman: Could I just add something? The conditions that you had Chris, that I reviewed extensively included a provision to address that. We are going to talk I think about the conditions tonight, if we get to that, and those conditions include monitoring and recommendation maintenance schedule reports to bio-detention, bio-swales area would come from an ecological consultant that the developer would hire in consultation with the Town of Newington to monitor all ecological activities in the recommended plan. So, I think there are answers to that. I think you have to be careful about being too specific in terms of trying to tell these people, in their expertise, what to do, instead what you want to do is hold them to a standard, a high standard to say, you are required to follow the recommendations of the Best Management Practices to accomplish, you don't want to tell them that they have to go once every week, or once every six months, or whatever that schedule is because we don't have the expertise, nor is there anything on the record that I remember that tells us that at least, so I think what you want to do is to set it up so that the expert, that the consultants are going to be responsible for the specifics of getting to the goal that you want. That's kind of how the conditions are set up, in that way for various areas, not just that area.

Chairman Block: I would suggest that we take a quick glance at Condition F and G, and H perhaps....

Chris Greenlaw: Mr. Chairman, if I will, what I'd like to do is, these conditions, as I have said a few times, are a living document and what I want to do is pass out the latest as of today. I don't think for the benefit of the Commission that everyone is reading off the same sheet of music.

Attorney Boorman: And while he's doing that, Chris and I have met for several hours to address this based on our last meeting, when the Commission indicated that they wanted to proceed along the area of discussion of conditions. So we started with Chris's massive list of notes that he took, through the entire hearing process, and he initially put those into a format. He has reviewed them from a staff perspective, of the specifics as to this project, I've reviewed them for purposes of conditions, to try to put them in a form that would be deemed reasonable, that would be enforceable, from a legal standpoint. This is the latest effort, it is not complete, clearly but it is the latest effort that we have to put before you so that you can have input as to where we are in these, and if the Commission has a desire to move along and discuss the conditions then I think it's important that we spend some time tonight going through each one of them, even though it's a lengthy list, just to make sure for the next meeting, which I anticipate to be the final meeting, that you will all put your eyes on it and have your input as to any language that is on those conditions.

Commissioner Paskewich: I don't want to slow down the process, but I do have a question, and a comment regarding the area that I have been thinking about recently going over these comprehensive items. I'm going to be as succinct as possible. I might not be able to refer to the 92 and maybe get back to that at another time. I'm looking at the general statutes of Connecticut revised to January 1, 2012, if that is the latest we can speak to that, Volume 8 and looking at Section 22A-41, Factors for consideration for Commissioner finding of no feasible and prudent alternative wetlands or watercourses, habitats, jurisdiction of municipal inland wetlands agency, moving forward to Item 3: the relationship between the short term and the long term impacts of the proposed regulated activity on wetlands or water courses and the maintenance and enhancement of long term productivity of such wetlands and watercourses, and the reason that I bring that to our attention here, is that there was conversation and there were comments made by our expert witnesses, Logan and Sigrun to the affect that January 8th, 2013 memo, REMA, a pollutant loading analysis and hydrologic budget to wetland two, and there maybe documentation beyond this, referring to it, but I'm not sure because I can't find it, and they were requesting a pollutant loading analysis, and then there is an italicized paragraph below this that I am going to refer to, and it lends me to ask a question, would the applicant conduct a pollutant loading analysis showing how pollutant loads generated by the development would be attenuated by the

proposed storm water bmp's. Could this be done for sediment, nutrient, metals, bOD, cOD, could the analysis consider pollutant accumulation over time and resultant concentrations in the case of vernal pools two and three which lack outlets. So what I'm leading to is, if there aren't any outlets how do we know how much accumulation of the twenty percent that is considered to allow nutrients to be in the wetlands, may accumulate over time, and not have the ability to leave the wetlands, but accumulate over time and become a large pollutant load to the wetlands and cause their effect to be diminished?

Attorney Boorman: Is that question to me?

Commissioner Paskewich: I'm looking at you, but no, not directly to you.

Attorney Boorman: Well, I'd be happy to talk about the legal ramifications, but it's probably more of a staff question.

Chris Greenlaw: Honestly Alan, I would have to go back to the record myself because that is something that our expert looked at, and I would certainly look at the document where you raised the question, and subsequently the preceding metals and reports that came out after that, so that's something that we can definitely look into and get you an answer, because that is something that we leaned heavily on from our ecologist to answer, and hopefully it is in the testimony to answer your question.

Commissioner Paskewich: Again, I did read it somewhere, I didn't have time to go through 92 documents and try to find everything and come down to one succinct item, it's a difficult task, I speak for myself, so if you are going to move forward to look into that, and bring it back to the table.

Commissioner Clark: I brought up exactly the same reference and high lighted exactly the same statement in the statutes, and the things that were in the record that I brought up were statements in the minutes, again I don't have numbers, I have the minutes of January 24th, on page 23, near the bottom, Attorney Regan and George Logan were discussing a time period of monitoring, I think this is pretty much the same issue, and George Logan says, "it could be between five and nine years." He also stated "these things will eventually cease," and I don't really know what he meant there, whether he meant that the hydrodynamic separators will cease, or the monitoring will cease, and then Andreas asked about a worse case scenario, and George said, "we're expecting that we will see somethings" and then he talked about someone doing something unworthy, and again, most of these monitoring periods were quite short when you consider the nature of those wetlands and the fact that they are both just sitting there.....

Commissioner Paskewich: They're confined, is what I'm reading, I'm reading and thinking the same, the confined area within the development. Right now they are not confined, but once you develop around them with structures and roads, they are confined and have no outlet.

Commissioner Clark: And on the same day, Sigrun stated, I'm sorry, I don't have a page, regarding chemicals, oh, I'm sorry, this was not from the minutes, well, ultimately it was in the minutes, her statement where she referred to DEEP, but this had nothing to do with DEEP, she wrote regarding chemical impacts from storm water constituents leaving the basin, we agree that this probably would not happen right away but after a lag of ten or fifteen years, and I think a statement like that for ten or fifteen years, and go back to the statute and look at the phrase long term, and see if that refers to the same thing, so I had the same concern as Alan about time frames of monitoring and continued pile up of nutrients, pollutants, in this type of wetland, or I should say, watercourse.

Chris Greenlaw: Mr. Chairman, a couple of things that I do want to add, and I want to differentiate between tss and pollutant loading. Tss certainly as an engineer I can speak to, and on the 24th, Logan did mention as far as tss, they are going to have 91percent tss removal which is greater than 80 percent which is what we need, but in addition to that, to answer your question, you weren't sure if the time line was to, how long it is going to be cleaned in the future, and that's going to be perpetual, that is on the chart on GN2 of the contract documents, the plans. That, speaking as to the hydrodynamic separators, that's something that has a maintenance, I think the state spec is twice a year and they are supposed to monitor it in addition to that. That's the issue of tss that I can speak to. Getting back to the pollutant loading, there is a comment, the meeting of the 24th, on page 26, and it says, this is testimony from Logan, George Logan, now he is discussing, he mentions, he says, now I want to go to a couple of other things, I did look through the pollutant loading analysis, it's detailed and complete. Now he mentioned this, but I want you to read all the testimony around it, in this area, but one of the things that he does offer is that in addition to his analysis of the pollutant loading, he did offer you that plan, and in addition to that plan, and the recommendations, what I did, and you will see in the comments, the conditions, is that he put together a detailed plan to continue to monitor, monitor the ground water, monitor sampling of water, and he mentions that. What I did was, I took his recommendations, and I made it in the form of conditions and I want you to reflect back to that, that should be in the conditions that you have in front of you.

Commissioner Clark: Do you know his document....

Chris Greenlaw: Twenty-four. There was a plan that came out on the 24th, the meeting of the 24th, that was the one that had, it was the one that showed, it was a topographic plan that had blue squares, triangles on it, I think it said grading and something in the upper left, and on the right it said, figure one, and it talked about water quality sampling.

Commissioner Clark: So that was a map looking thing with blue squares?

Chris Greenlaw: Yeah, and when you read, I believe there was a memo that went with that, from the 24th as well that he submitted to this Commission. There is a memo, I believe.....

Commissioners Sadil: To Mr. Dan Rossi, and Town of Newington, this is the one I think, the very last one.

Commissioner Clark: Oh yeah, and it has the landscaping plan with it, okay, I've seen that.

Chris Greenlaw: It's this plan here that discussed the continuation of shallow ground water sampling stations, surface flow sampling stations, and storm water sampling stations, this map here. That was the illustration and he was putting forth this plan to continue to sample the ground water, the surface flows, and that's where he mentioned, that's where Paskewich brought up the samples, you questioned the samples, that was directly out of this report that I had referenced in that condition. I believe he had mentioned piezometers for ground water, so please refer to that as well for his recommendations.

Commissioner Paskewich: I'm going to speak to that, as you just mentioned, the piezometer module, if we have a 91 percent objective....

Chairman Block: Well, wait a minute, the 91 is for the tss, which is the total suspended solids. The issues that Kathleen was speaking to was the chemical loading which could be evolved you know, items. Remember, a bio-swale filters out this material several different ways, first of all, there is the physical filtering of the sand and the mineral materials, and that accumulates in the filter and can be removed physically if the material, the matrix is physically dug out and new

material put in. Then there is the biological filtering that occurs through the (inaudible) of roots and stems where those chemicals are drawn into the plant, and if the plants and roots are harvested, they also can be physically removed. The issue is, again, as far as I recall, please correct me if I'm wrong, the efficiency of these bio-swales is approximately 80 percent. Kathleen's point is that it doesn't give us a time unit as to how long that 80 percent occurs. So if you arbitrarily take a one year loading of pollutants, let's say it's a 100 pounds, just for percentages, 80 pounds is going to be caught in the bio-swales, 20 pounds is going to go through, i.e., into the wetlands. The question is, we have had testimony that some of these common materials to development are toxic to the plants and/or the animals and that they can accumulate and physically deliver a toxic load. So the question is, if you take 100 percent, 20 percent gets through, how long does it take to accumulate a lethal load which will alter the physical characteristics of the wetlands? And is the maintenance plan proposed within the conditions adequate to, over a long term time, maintain the protected quality of the wetlands? I ask you Alan, I ask you Kathleen, and the others, does that state the concern that you are raising?

Commissioner Clark: It certainly does.

Commissioner Paskewich: Yes it does.

Commissioner Clark: And again, it just says for five years, then the plan to be in accordance, but in George's testimony it did not sound like it was going forward.

Chairman Block: It was going forward fifteen to nineteen years you said?

Commissioner Clark: No, that was, Sigrun stated that she expected a degradation of the physical characteristics in ten to fifteen years.

Chairman Block: If they didn't do the bio-swales?

Commissioner Paskewich: No, no cumulative, over time.

Commissioner Clark: No, over time.

Chairman Block: With the bio-swales?

Commissioner Paskewich: With the bio-swales.

Chairman Block: So you are saying that her testimony is that if they put those bio-swales in, that still within fifteen to twenty years,

Commissioner Paskewich: Ten to fifteen.

Chairman Block: That there is likely to be a change in the chemistry of the wetlands that would be to the detriment of the physical characteristics of the wetlands.

Commissioner Paskewich: Yes, I remember reading that.

Commissioner Clark: That was in that e-mail exchange, well it never turned into an e-mail exchange, but yes, you have to memorize these things.

Commissioner Paskewich: Chairman Block, since you seem to have a scientific background on tss, nutrient pollutant loading and different types, I going to refer to an errata, Newington Walk

Application 1-17, January 17, 2012, page 12, question ten, second paragraph, The Wetlands Commission likely already understands that algae blooms enrichment result from excessive soluble nutrients that can be rapidly assimilated like nitrate nitrogen or dissolved phosphorus. So my question is, what in these treatment plans helps this become non-excessive, algae blooms in nitrification from soluble nutrients like nitrate nitrogen or dissolved phosphorus?

Chairman Block: My two cents, and I'm just offering it as an educated lay person, if you will, those chemicals are commonly used as fertilizers. What they are saying is that if they reach the aquatic body of water, the fertilizer affect is first recognized in an excessive development of plant algae's, and that plant algae's therefore deplete the oxygen load and therefore harm the fish, amphibian life in the wetlands, now, the bio-swales being plants as well, if those nutrients reach the bio-swales, they anticipated function of the bio-swales of those plants will bloom, soak up those nutrients, and they won't pass through to get into the body of water. So that's why the excess vegetation is within the bio-swale and therefore if those plants are harvested, then those excess chemical nutrients would be physically removed and they wouldn't have harmed the wetlands.

Commissioner Paskewich: I remember Sigrun (tape change) change seasonally to any affect whether or not, consistently at the level which they should be, that the algae blooms could, and nitrification could increase faster.

Chairman Block: Well, eutrophication is generally understood to be the accumulation of organic material within the body of water such as the changes condition from being physically open water to being a vegetative mat, marsh, swamp and then dry land, peat, and so on. So, yeah, if you've got algae blooming and the water level drops, it's going to become muckier faster. So it's part of the, if you will, degradation of an open body of water.

Commissioner Paskewich: So expanding my question, are we controlling the fertilizer of any of these treatments one hundred percent?

Chairman Block: You said eighty percent.

Commissioner Paskewich: I didn't realize that fertilizer was part of this nutrient discussion until you mentioned it.

Chairman Block: Well, phosphorus, calcium.....

Commissioner Paskewich: Okay.

Chairman Block: Those are fertilizers.

Commissioner Paskewich: So all these fertilizers that may be placed on these lawns and goes underneath the soil, the permeable soil how is that going to be collected?

Chairman Block: It's going to be collected by all different vegetation that is the pathway.

Commissioner Paskewich: Sounds limited.

Chairman Block: Well, if I remember correctly, I thought there was a proposal for a condition that there was to be a limited use of fertilizers within the development as part of the restrictions on the home owners association.

Commissioner Sadil: Yes, it's one of the memos, it's proposed as a condition, it's supposed to be the experts, certain types of fertilizer, I forgot the term that they use but....

Commissioner Clark: That's correct, did that turn into a condition? Okay, the whole Integrated Turf Management. The same thing, in your water quality sampling program, condition H, I still see the five years, and then the plan to be in accordance with REMA, but I don't see a real time frame. I'd be much more comfortable with a real specific time frame.

Chris Greenlaw: Right. Does it say post construction because I believe per the REMA report he says five years post construction, so he wanted to start right away such that he I believe it was to establish a base line as to what is there now, and then projecting out during construction, and then for five years post construction, so that's what I utilized as part of the condition. One thing I want to say about the tss, the tss itself is recommended, the specifications from DOT that we follow from DEP specifically for tss the recommended removal rate for sediment is eighty percent. Logan has gone on record on the 24th, stating that they're in the nineties, it's ninety-one, Chairman Block on page 27 had asked them, the bottom line, there is no better technology utilized and George Logan said, there is no better technology, so one would have to consider what REMA put together for you was that, for that additional amount, he went the extra distance on our behalf and developed this plan to continue to monitor, okay, these are the regulations, this is what they have put together, there is no better technology, but yet, we are requesting more because this is a unique wetland, so I took those recommendations and that's what I utilized to put in that plan. Also, I believe that there is a statement within our own regulations, of, within our own regulations that mentions environmental monitoring, perhaps the attorney can help me with that. Do you remember that section as well?

Attorney Boorman: I think it's in the conditions.

Chris Greenlaw: I know it's in the conditions.

Attorney Boorman: When we go through we can probably pick it up, but I don't have the regs with me either.

Chairman Block: My two cents in this is because we're not, we're talking about a closed ecological system, and as Alan as said, there are no outlets to these two wetland areas. We're also talking, not about human time if you will, but about ecological or geological time perhaps and I for one would like to suggest and I think it's reasonable for the protection of the physical species and the composite of the wetlands that the five years be extended to twenty-five years because we, we're not talking short term, we are talking about, this town has been here for a couple of hundred years already, if we're protecting our wetlands we want the wetlands to be here for a couple of hundred years.

Commissioner Clark: Can't we say something like the lifetime of the home owners association?

Attorney Boorman: If I can just interrupt at this point, according to your regulations, regulation number 43 talks in terms of applicant's environmental consultant as a condition of professional services required under a permit, monitoring the new mitigation area for a period of five years is right in your regulations, so, and also George Logan indicated five years as part of his testimony, so I guess what I was going to say to you, if you are going to go higher than that, I'm going to ask you to come up with something in the record to support that.

Chairman Block: Absolutely.

Commissioner Zelek: Cite what Sigrun recommended, the time frame.

Commissioner Block: Again, fifteen to nineteen.....

Commissioner Paskewich: Ten to fifteen, oh, the monitoring program, five to nine.

Commissioner Block: The amount of time for the deleterious changes.

Commissioner Paskewich: Ten to fifteen.

Commissioner Clark: And that's in the, from the DEP, starts bio-diversity of Cedar Mountain Swamp Cottonwoods, but I want to make it clear that I am not referring to either the attorney cited in this or in fact, Mr. DeBaros, I'm just speaking as to Sigrun's opinion which, she says, we, but that includes her and I believe she is talking about her and Jodi Chase, we agreed that this was probably would not happen right away but after a lag of ten or fifteen years. So that is the first that you are going to see, that's her opinion, one of our expert's opinion that that is the first they are going to see a change.

Chairman Block: Well if that is the beginning of the change, then the monitoring period should extend beyond that, for a reasonable period of time, so again, we're getting ahead of ourselves perhaps. I think at this point it's important that we come to a consensus and we talked about this last meeting, if you are inclined to approve the permit then it is appropriate for us to go on and deal with the conditions. If you are inclined to deny the permit then there is limited value in delving into the conditions at this point, and then the crux of the third choice is whether or not the conditions is the important balancing point as to where your load is inclined to go. So, is there a consensus of denying this application out of hand?

Attorney Boorman: I'm just going to ask you not to quite put it that way, because it sounds like a vote, and you're not asking for a vote. You're talking about consensus and the question should be stated better is there a consensus to proceed to work on the conditions.

Chairman Block: Okay, I stand corrected, because that was in fact, the intent.

Commissioner Clark: And I'm just going to ask, will we not know until we all actually vote, so I feel that we need to work on the conditions because we're just not going to know, like the Academy Awards.

Chairman Block: Anybody else?

Commissioner Sadil: Chairman Block, I have a question. Where do we stand about the Calhoun/Clemens memos about the seven hundred foot buffer? Something caught my attention in the January 22nd minutes, on page 25 when Dr. Abrams was giving testimony, and he basically debunked that 750 foot buffer, saying that there was no scientific evidence in his opinion, was that verified by scientific research? Then later on, when Mr. Logan spoke, he did say that in the bibliography there was a pure review of that document, saying that there was, and he deals with the whole of the buffer area. I'm getting confused with the belief here, okay, but the thing that caught my attention was on that page 25, right, these are Dr. Abrams words here, right now the scientific literature supports a critical core habitat of about 250 feet. The 750 feet recommendation by Calhoun/Clemens was not verified by research, but in addition to providing the space for the animals, the 750 is to ensure protection of the watershed, so a generalized 750 is what they recommend. Now, I turned by attention, you are talking about the whole, not only on the surface but also what is underneath the ground is playing a part here, especially when that vernal pool is being fed from underneath from various sources, ground water, infiltrated water going through and coming back up, and he says, what we have done here, but the plan does not meet that requirement, especially in phases three and four, does not meet the 250, that's his

requirement, the applicant's expert, said that, in phases three and four would violate the 250 buffer and he claims that scientific literature supports that. That's one thing. Then he says, what we have done here is to design a project that does the best it can to get in that direction, and protect the water quality and the water quantity and what we will do to protect the animals and migrate, and all that stuff. So, I'm sort of torn here, about who to believe, and you have more expertise than I do, you have one side, he's sort of agreeing a little bit, because Commissioner Zelek questioned him on this point, and basically you are saying, what it came down to, this is Commissioner Zelek speaking, it's recorded on page 27, okay, so there are two differences then, I'm sorry to interrupt you, we have a 750 foot buffer for watershed and a 250 foot for critical habitat. Dr. Abrams responded, yeah, I guess you can put it that way. So, what we have here is a mitigation plan, he doesn't meet his 250 foot requirements that on two occasions he said that is the industry scientific research was the 250 foot buffer, and then on the other side you also have REMA who says, well, there is pure research on the Calhoun/Clemens work.

Commissioner Paskewich: Bibliography.

Commissioner Sadil: Right. You can go for a long time just making sure that this is, so I'm looking for your recommendation to explain that to me, or I don't know who to believe here....

Chairman Block: Again, I'm not going to claim any greater expertise than anybody else, but there are several different factors that I thought about in considering this situation. The first is, the initial concern over the extent of the protected area arose from the earlier version of the project, and the first thing you have to do is to consider in the latest version in which, some where between maybe thirty to forty percent of the perimeter of wetlands two which is the most biologically active one, does in fact exceed, I mean, they brought a couple of houses, and they joined with the major wetlands area, so there is a large part of the perimeter that meets any of those parameters that you have referenced. The second is that, to an extent the physical limitations of the project area, i.e., Russell Road limit the ability of the project to meet the higher end of those protected areas.

Commissioner Zelek: I want to stop you right there because Russell Road is a pre-existing condition and it should not even enter into this discussion when they start to consider the percentages of the amount of disturbance.

Chairman Block: Yeah, but again, what Calhoun/Clemons doesn't say as far as my recollection and understanding is, if you take the entire circumference of the area to be protected, are they saying that one hundred percent of that circumference has to have a buffer extending out 750 feet, or is it practically of value that it be eighty percent of that circumference, seventy percent, fifty percent? If you take that it has to be a hundred percent, then as you said Russell Road prohibits that from being accomplished. If you are saying that it is some lesser percent, again, is the court going to say, fifty percent, seventy-five percent buffer would be acceptable, in which case, maybe this project provides it. So the question is how much is too much, how much is not enough. We would need to be able to articulate clearly in our reasoning that the lapse or the absence of that buffer over that percentage of the circumference of the wetlands was clearly likely to be able to physically alter the characteristics of the wetlands. So you would have to feel quite comfortable in making that assertion on the record. Now again, let's throw in two other factors, our regulations call for one hundred foot buffer, the DEEP, when they were asked, said extend it out another fifty feet, the applicant has met the 150 foot for the most part. Now what are the grounds that we would be able to articulate for caring it beyond that distance and be comfortable that the courts would uphold us.

Commissioner Paskewich: Have the courts looked at development such as this with confinement of the wetlands?

Chairman Block: You mean the watershed to the wetlands?

Commissioner Clark: Let's not go there yet, because I have a whole lot on watershed and geology.

Commissioner Paskewich: Okay, I'll narrow it down. In cases like this, for confined wetlands within a development, that we know.....

Attorney Boorman: What I can tell you is that the courts routinely tell you that you have to follow your own regulations, so if you are going to deviate from your own regulations, you've got a big problem to start with, whether you believe in the Calhoun amount or not. You're going to be criticized for deviating in any respect from your own regulations.

Commissioner Paskewich: Where are we deviating?

Attorney Boorman: Moving above the hundred foot buffer. Your regulations have a hundred foot, not 150 feet, not 750 feet. Your regulations are your regulations. So that is a problem there, and then the other part about that is, you have to search the record for some basis to say that there is an expert that indicates that 750 feet is indeed scientifically available as a resource to use, so in other words it's a two part test that I think is a difficult burden, but you folks decide what you want to do.

Commissioner Clark: I'd like to make a comment. I think that talking about the 750 foot, I don't think that we are talking about it as a buffer in this respect when we're referring to Calhoun and Clemens, we're just talking about it as an area that the amphibians are likely to be moving through rather than as a reference....

Chairman Block: That's contrary to Calhoun and Clemens and also as to our experts. They said specifically,

Commissioner Clark: Who is they?

Chairman Block: All three, said that the cultivated yards is a practical physical barrier to the migration of the amphibians.

Commissioner Clark: No matter how far?

Chairman Block: No matter how far.

Commissioner Clark: Okay, I'll buy that.

Chairman Block: It's a desert as far as they are concerned.

Commissioner Clark: But the 750 didn't have to do with an upland review area.

Chairman Block: No, this 750 as Alan said, is a figure that they created for the extent of the habitat from the wetlands that the amphibians are going to, in a natural state, be utilizing.

Commissioner Clark: Correct, that just what.....

Chairman Block: That's their range approximately.

Commissioner Clark: So it didn't, the 100, 150 and 750 were just apples and oranges.

Chairman Block: No, not really because the 100 foot buffer within our regulations is anticipated to be a viable habitat zone for the use of these wetland dependent critters. The DEP can be interpreted the same under this scenario 100 is too short, 150 is what they would urge, which the applicant has apparently accepted. So the question is, can we articulate a strong reason why that habitat area has to be extended out significantly beyond the 150 foot area, or, there's going to be physical harm to the wetlands.

Attorney Boorman: I'm going to amend that to say, first you have to find there is physical harm to the wetlands before you even get to the critters if you will.

Commissioner Clark: That's interesting, my mind is going, they were trying to prove that X amount of the critters are gone, then it's the lack of the critters that affects the wetland, and that was that earlier case that, the River Sound case, that one was adjudicated in favor of the wetlands commission because of that. All of these are a little different biologically.

Attorney Boorman: They are all different, there is no question about it.

Commissioner Clark: They are different biologically.

Attorney Boorman: But again, the general rule, you first have to find the physical affect on the wetlands, it has to be detrimental, before you can even talk about critters. You can't talk about critters first, you have to talk about a physical affect. With that, I'm going to excuse myself for a few minutes, I've been called upstairs, downstairs to the Town Council meeting and I will be back as son as I can.

Attorney Boorman left the meeting at 8:10 p.m.

Commissioner Paskewich: Want to take a short recess?

Chairman Block: No, we only have about.....

Commissioner Clark: Five hours.

Chairman Block: No, but we know that snow is coming tonight.

Commissioner Sadil: I just want to relate the point, 750, the applicant's expert said it's 250 based on scientific literature that supports his 250, even if I let the 750 go by and go by their own interpretation, their own applicant has said it is 250.

Chairman Block: Right, and again....

Commissioner Sadil: That's what I am putting the weight on, I mean, obviously it is open to interpretation dealing with the whole ecology of the system, the whole.....

Chairman Block: But again, being devil's advocate, the final iteration of this project something, I believe fifty percent of the perimeter is far beyond that. So how would that be viewed by the courts?

Commissioner Zelek: I don't think with the revision that we were given on the 22nd, and the comments that were made by Dru Associates on the 22nd, when reviewing that plan, that these disturbances are outside of the 250 foot area that Dr. Abrams described. So that's the concern.

Commissioner Sadil: Right, this is the last plan, the 24th, the final proposal and he clips pages three and four the edges there, I can take a ruler here and definitely phases three and four violate the 250 foot buffer that he says the scientific literature supports.

Chairman Block: Again, your point is the final version of the drawing that we received which complies with the DEEP's 150 foot margin does not meet the standard imposed by the applicant's own expert of 250 feet.

Commissioner Sadil: That's my point.

Chairman Block: So the point then comes down to the pivotal question, is the extent of that failure to meet their own experts requirement significant enough to warrant denying the permit along, and if not, what else do we have? You know, do you want to take note of that deficiency and go on, or what else is on the plate?

Commissioner Paskewich: How many deficiencies do we have to accumulate to satisfy the court?

Chairman Block: All of them. At this point in time, our review is what our review is, if we come up with five or ten, or fifteen or twenty, the point is going to be, and I've seen this in judicial positions that they hang their hat on one and say that's good enough, or they say it reflects that the entire application is deficient and therefore it is sent back, and there is no way on earth that I or anybody else can say what's going to happen in the mind of the judge.

Commissioner Paskewich: Here's the question that I have about the court system, because I'm not familiar, if this went to appeal, does this Commission have a land use attorney at its.....

Chairman Block: Well, that's going to be up to the Town Attorney at the time and/or the Council as to whether or not they want to get additional assistance to address the view.

Commissioner Paskewich: So that is a possibility. The land use attorney may be called on. Because all of us are lay men trying to look at this scientific data and we are not land use attorneys, we don't know the legal ramifications.

Chairman Block: Well again, and I acknowledge the fact that Attorney Boorman and I have been harping that we should all be cognizant of the fact that it is going to be, it's possible that this is going to be reviewed by the courts, but on the other hand, as lay people, the entire Commission only has to meet the burden of being true to yourself, in being comfortable in asserting that the reasons why you are voting the way that you will vote is for good and true reasons in your heart and mind. You know, if perchance, if you based your vote on one or another issue, for which there is scientific evidence that you are wrong, so what? They were there to convince you, you have to be true to your own deliberations in casting your vote, and that's it. The rest of it, falls where it may. So, you know, we are balancing this against what we heard the courts say, in the past cases, so if you have a reason you try and explain your reasoning in accordance with whatever support those decisions give you, you know, but you have to do it to be true to yourself.

Commissioner Paskewich: Well, we are working here as a team, not just one.

Chairman Block: We are, and that is why we are having this discussion because as each one of us articulates our understanding to the others, we inform and educate and balance each other and help us settle our minds and therefore our votes.

Commissioner Paskewich: Settling is difficult right now.

Chairman Block: Don't dispute it. If it was easy we would have done it a long time ago. John, you are looking thoughtful.

Commissioner Igielski: Always.

Commissioner Clark: I want to talk about ground water. But a larger topic is similar to what experts to believe, and I feel that we have gotten more contrary evidence and testimony regarding ground water than almost anything else, or at least anything else that I understood. I'll use, I'll go to REMA's report, and this is on page 24 of the REMA report when.....

Attorney Boorman returned to the meeting at 8:40 p.m.

Commissioner Paskewich: What's the date on that?

Commissioner Clark: January 17th.

Commissioner Paskewich: Thank you.

Commissioner Clark: And this is when we are in the phase when REMA is reviewing, which was good because they ended up doing some of our home work, REMA is reviewing the testimony that has been presented thus far by Dru and Slayback and REMA states that, we note that while the BL Companies computations attempted to deal with all of the components of a water budget, as they apparently followed the basic universal formula given in the REMA January 8th memorandum, there is one very conspicuous and important omission without which they can not come to the conclusion that they have in their letter. The omission is ground water inflow. While they do calculate ground water outflow, there was nary a mention of ground water inflow under calculations, therefore whatever other issues we might have with the hydrologic budget provided, this omission is a fundamental flaw. Then it goes on to say, we don't have a balanced water budget, I'm going to jump to the next page, the bottom of 25, where he states that he, they, say the overall result is this, we do not know how much ground water which is critical to a ground water depression wetlands, which is how they defined the wetlands, which I think is different than the way Dru Associates defined it, we do not know how much ground water, which is critical to a ground water depression wetland is being piped away, and/or denied to wetland two. This is, the implication here is after the development is built. Indirect evidence of this can be seen in the table, I'm not going to go into what the table is, but he talked about percent differences are staggering. Okay, we will fast forward to, just to suddenly the water budget balanced, and I never did quite get, understand how was ground water inflow calculated because on January 22nd, they asked Mr. Slayback and he said, secondly I would like to talk about the addition of the ground water component to the hydrologic budget, and I'm assuming that what he means here is that REMA said, I think you should add the ground water component to your hydrologic budget and so that they did. What I gave Ray and his staff was data from the U.S. Geologic Survey which says that on an average basis throughout the central Connecticut, U.S.G.S estimates that the average recharge to till covered bedrock is about seven inches a year and is reduced to about five inches a year in a one year in thirty drought, I'm just going to jump ahead, he describes the bedrock, for this particular setting where the bedrock is not the typical bedrock, in most of central Connecticut but it is basalt which has a very tight texture, I'm again going to just jump down, I believe that the amount of recharged in the bedrock here is probably less than the U.S.G.S. averages and the quick flow, the water that flows through the soil and into, glides on top of the bedrock, flows on top of the bedrock, is somewhat higher. Some of that sentence doesn't quite work, but that's all we have here. I think that is about all I have to say tonight. That's what we get from him, ground water, is that really happening. We don't get anything further from REMA, I don't think except to say, oh, everything balances out now, and then the one other thing is we have two experts whose input was provided by Mr. Bachand, and that was Kathryn Carlton who states and she just, she states, and can we use that? I guess we are coming down to, this is an expert it was provided as

a reference, and she writes, although the water table is often considered a subdued replica of the topography this is an over simplification, the ground water divide and watershed divide do not necessarily coincide. That is different from what Mr. Slayback said, flow through fractured bedrock is more complex than simple porous media flow and more likely to result in a ground water divide that does not coincide with the watershed divide. There is more testimony from her and the other expert is Meredith Metcalf and her, the high lighted statement here was, results indicate that ground water drainage basins of the fractured rock do not correspond to drainage basins derived from surface topography. So I feel that we have a completely mixed bag of opinions about ground water and that speaks to the water budget which has been agreed on by their eXperts and our experts.

Chairman Block: Well, again, and this is my understanding and I'm open to what others opinions are but we start off, we have a very discreet limited watershed for wetlands two and to a greater extent for wetlands three. When REMA's originally criticisms came out, the latest version of their plan diverted surface waters into the watershed to augment the natural flows and supposedly supplement or substitute for the lack of data as to how much has been going through the bedrock fissures itself, so they fudged their formula by saying, instead of trying to get a number for this unit or replace it with that which we assert is a much greater number. So therefore the net water budget has to be either equal or greater than what is naturally occurring prior to development. That I think is the net analysis that both experts have concurred with, and that was reflected in the graph that they showed us which is part of it that in which the blue line matches up.....

Commissioner Clark: Right, but I couldn't find anything in the testimony, maybe I missed it, there's a lot of reading here, that referred to what Mr. Logan was concerned with here, that said that no one was adding ground water inflow to the calculations. I couldn't find it. Can I ask the Town Engineer?

Chris Greenlaw: Yes, and I'm trying to remember whether or not you were here at the meeting, but this did come up, we did discuss, you did an excellent job of reading the minutes as far as determining the water sheds, whether or not the water shed and the ground water shed is equally, you brought that out in the testimony, but one of the comments that came up from this was the fact that on the 24th, REMA does look at wetland area two and wetland area three and he goes on the record stating that wetland area two, they had a generation of mapping where they were grabbing more surface water to augment watershed area two for wetland area two, I should say, and he believed that that was satisfied. The question at the time was the water budget for wetland area three, but one thing that I wanted to add was that this question did come up and one of the things that I offered to you, all that you saw was the cumulative chart at the time, that just showed basically storage volumetrically of water for watershed area two and three, volumetrically shown as acre feet. One of the things that we didn't see behind that was the data, and I think we took a recess and I brought that data up to you subsequently after that meeting, I e-mailed the data and I think when you look at the background data, that's the data that REMA Ecological Services had requested. It's a composite of, if you quiz me on that, I think there is rainfall data, I think there is ground water data, I think they take into consideration evapotranspiration and what he was looking to do was, he was looking so far as the insufficiencies that they had at the time, he wanted to see the data and in addition to that, he wanted greater areas given and at the time we had the map, and I was delineating the two watersheds that contributed to, and what he was looking for, the way that we left it at the end of the day on the 24th, because they weren't able to satisfy us for all of the watershed areas, was he goes on to state that watershed, that contributes to wetland area three, this is on January 24th, page 26, it spells out everything, there is one little change that they probably didn't catch because there are a lot of moving parts, and then ADA 3A which was 1.05 acres is now 1.7 acres and that is for the addition of.....

Commissioner Clark: But did he include what he was concerned about the first time, did he plug those numbers in.

Commissioner Sadil: Near the end, on the 24th.

Chris Greenlaw: One thing that I wanted to point out was, pursuant to our meeting.....

Commissioner Sadil: I wish to comment Chairman Block. I have a bone to pick with the process. This is my editorial comment. I don't think we should have had our consultant doing his thing while the public hearing was still going on. This all happened in the last few days. If I had known that, I would have picked a little harder, now I'm reading all of this, so I'm just, an editorial comment, if I ever go through this again, I wouldn't want to have a second opinion going on while the public hearing is ongoing. He was spitting out the memo's right up to the 24th, and they were tossed at me, and now I'm reading it after the fact, I'm just saying as an editorial comment, that's one thing I don't like about, hind sight is 20/20, it's not working out for me.

Chairman Block: The statutory restraints on our deliberations have placed a great burden all the way around.

Commissioner Sadil: I understand that, but I would not have, would have had the consultant do his thing, then have the public here, understand? I understand the time requirements obviously you have to respect that, but not when new critical information is being passed forward at the last minute, that's not fair to the Commissioners.

Commissioner Clark: Is that the pre/post graph?

Chris Clark: Yes, and I want to expand on that, and at the time of that meeting, what we identified that for wetland area two, I think we just had the chart from REMA, we relied on our expert REMA to look at this data, and I provided to you that I wanted to show you exactly what he was looking at, and he was talking about with wetland area two he was discussing a lot about how close they were 12.95 versus 13.01, don't quote me on that, but the area that we identified as still being a deficiency was wetland area three, so what I did was, he made recommendations in his memo and I think he referenced possibility Lot #8, he was looking to grab additional surface area to augment that watershed area. What we did was I incorporated that as a condition such that, it's J, increase water budget by approximately 0.23 acre feet I believe is what it works out to, to wetland area three by collecting additional surface water from lots 14 and 19. One thing that I want you to notice is that I noted 14 and 19. I looked at it with staff, I talked about it with the other engineers and for instance, whether it is lot 8 or 14 and 19, 14 and 19 are directly adjacent to those areas and given their elevation, if we were to inspect the map, George goes on to say, even if it's a little bit more area he believes that would be fine, but I just changed the lots because I believe, given the elevation difference, looking at it as an engineer, it's going to be much more prudent to pull from these lots, that's really kind of esoteric, but the point is, they need to meet this requirement as a condition. So I've made that a condition of approval, pursuant to the testimony.

Commissioner Clark: Thank you, but I'm still asking the same question, and that is, did they include ground water inflow in coming up with those computations?

Chris Greenlaw: Yes.

Commissioner Sadil: Basically what it is, is a mathematical model. Right, using averages, right?

Chris Greenlaw: Yes.

Commissioner Sadil: And if I use the law of averages, I have one foot in the campfire and the other foot in the bucket of ice and if I use the law of averages, I'm doing just fine.

Commissioner Clark: But that's all that is available to use, is that correct Chris?

Chris Greenlaw: Correct, what I have done additionally is gone back into the notes, into the drainage reports and pulled that out subsequently for you to reflect upon that and see that, that is in there exactly, that was the question that had come up.

Commissioner Clark: Could something like a hundred year flood, a hundred year storm come into any of these calculations?

Chris Greenlaw: I'm sure it does. When you look at rainfall data, that's what it is. It's empirical, historical data and talking about a hundred year flood is different from this. They are looking at averages as you indicated, they are looking at historically a certain period of years, I think that they are looking at 1974-2005, is that what's on that chart, from memory. They had looked at that, in addition to the ground water, what he had come up with using the U.S.G.S. had estimated seven inches and he was utilizing five inches roughly per year for ground water. He incorporates that, and this is the data that REMA had requested and ultimately reviewed for areas two and three. Alternately, at the end of the day on the 24th, he went on record stating that wetland area three was still deficient, and that's the reason for this comment. If you would like, I can still put Lot #8, but I think we're going to see one of the higher lots come into that if they had to satisfy that condition.

Commissioner Clark: And on the same page, there was something that made no sense to me, but maybe it was just mis-spoken or maybe I just don't know what I'm talking about. His last sentence of the giant paragraph, if you looked at total nitrogen you generate 16.9 pounds per year, if your system's are doing fifty percent renovation efficiency which is about normal, can't do better than that, then you have 18.4 pounds of total nitrogen exported from the existing wetland two. How is something exported from wetland two?

Commissioner Paskewich: Good question, no outlet.

Chris Greenlaw: Again, pollutant loading, we're shifting gears, we're going from ground water to pollutant loading. That's referring to pollutant loading.

Commissioner Clark: Well, that's okay, I'm just saying, nothing is leaving wetland two.

Chairman Block: What page are you on?

Commissioner Clark: I am on page 26 of the January 24 minutes.

Chairman Block: There are two alternatives that come to my mind. One is that, if that amount of nitrogen is taken up into the plants, then the removal of the plants would be exporting that amount of nitrogen, on the other hand, it could be a misstatement, and that amount is being imported into the wetlands.

Commissioner Clark: I think, but we've got what we've got.

Chairman Block: And we've got what we've got, and you take your choice by reading the surrounding statements to which ever makes the most sense to you.

Commissioner Clark: I would think 18.4 pounds being taken up by the swamp cottonwoods probably wouldn't be really good for them.

Chairman Block: Well again, that goes to what the toxic load for the, it might be enough to have them grow very vigorously. Or it could be toxic overload.

Commissioner Clark: I don't think the research exists, I think Sigrun said that.

Commissioner Paskewich: Well, part of the research that we were looking for was the mineral analysis to support the continued growth of the cottonwoods, and we were never able to get that information.

Commissioner Sadil: Right, and one of the questions that I had, we didn't get the samples and I think that was lack of confidence on REMA's part because they could have shipped those to a private laboratory. That would have told us what the mineral nature of those soils were, and that would have showed us basalt, all of the nutrients that go through there, those soil samples would have been rich in the various nutrients that come from the basalt and it would have supported that there is a full circulation system going (inaudible) and up, and that's one of the questions that I had. That was very valuable information that they messed up on.

Chairman Block: Well, the other aspect of that is whether or not there are other species that would be more vigorously utilizing the additional fertilizer, the nitrogen and by overpowering, would change the physical characteristic of the wetlands, i.e., by crowding out the swamp cottonwoods and the more desirable marsh plants, but again, I think we have limited information in our record as to how that competition would work out. We only have the recommendation from the DEEP that there be a vigorous maintenance program to control the overgrowth of invasives and undesirable species.

Commissioner Paskewich: Are we also speaking to potential algae bloom that could take up nutrients and bloom even more?

Chairman Block: All plants utilize nitrogen. So that is why the efficiency of the bio-swale, the maintenance of the bio-swale, and the long term lack of an outlet, an outflow, from wetlands two and three is a critical element of maintaining the physical characteristics of these wetlands.

Commissioner Paskewich: Is this a model we're working on, is this the model, this proposed wetland and confinement within a development, and all these engineered designs.

Chairman Block: What do you mean by a model?

Commissioner Paskewich: This is new to me, this complete stream of storm water management, and I'm not quite sure, in reading all of the documentation and all the substantial information regarding these designs how effective they will be in the long term, with or without maintenance. I'm thinking that this is a model, a new and improved design of storm water treatment system in cleansing.

Chairman Block: Well, the information that we were given is that the functionality of the bio-swales has been well explored over a significant period of time. Their effectiveness is fairly well accepted by the experts is how I interpreted their testimony. The question is that where we have a very discreet watershed, a very limited area, with a rather unique biotic physical component, do we have information to be assured that the long term viability of this wetlands is assured? That's the decision that each one of us has to make.

Commissioner Clark: I have something else. Chris, condition M, what, you don't have them memorized, I think you have been eating, sleeping, breathing these conditions....

Chris Greenlaw: Can I make one quick comment. Your secretary John Igielski has corrected me. We have added many additional comments since you have seen this last of which K through P should be actually numbered. They are your standard conditions that we additionally put in. They might be somewhat redundant, but we thought it was in the best interest of the comments to put in, so what I'm going to do is, I'm going to renumber these, K through P will show up in addition to, if you agree, in addition to number thirteen, it will go on and you'll see next time that you get this list it will say 13, then 16, 26, 34, 37, 42 and 43. All those you can go right into your regulations and read those and reflect on those conditions that we have, and you are going to see that they are going to be similar but there are delicate nuances that we thought was in the best interest of this application, so M, number 34, your question?

Commissioner Clark: I guess mostly I think it bothers me to see it there even if it is a standard condition. It's just that, it is to be hoped that they would be so far from the wetlands that this wouldn't even be, it sounds to me like it opens the door that, oh yeah, well, if you stomp on the wetlands you can then go back and fix it, especially in this particular application. And I didn't look at the other ones specifically, but that one just made me sit up and pay attention.

Attorney Boorman: If there was something during construction that interfered with the wetlands or the upland, wouldn't you want it to be the developer's responsibility to put it back?

Commissioner Clark: I sure do, but I think using this as boiler plate, it just doesn't really work for me, I think it would need to be more, I hate to use the word punitive, but that is all that is coming to mind.

Chris Greenlaw: Let's look at it in another light. You mentioned a one hundred year storm which by and large there are only a few things designed for it, one thing is, you don't put houses where there are hundred year floods on those lands, but let's say you had a catastrophic situation, a five hundred year storm even, and certain controls on site blow out such that you get an impact to the wetland. Certain corrective actions are done, and as part of those corrective actions, there are some wetland soils that you have. Perhaps with this condition you can say, hey, I have a condition right on this plan, what are you going to do with those soils? You going to move them off site? Perhaps what we can do is use this as a mitigation effort somewhere else, this is a vehicle by which to use that so you know, it is a standard, we threw it in there more as a vehicle because right now there is no work, there is no activity, there is no footprint of proposed activities within the wetlands but that's perhaps a vehicle right there. Hey, before you take that off site, you have a condition right here, I would like you to utilize this for mitigation or creating a new wetland or whatever it is. It's in there.

Commissioner Paskewich: This mitigation proposal, does this come from DEEP, where does this come from? Where did the language come from?

Chairman Block: It was I believe in a discussion of standardized conditions. It was developed as a general instruction. In considering it for this particular application, this project, perhaps Kathleen's concerns could be better articulated by saying, wetland soils are not to be disturbed or impacted by construction activities or by the creation of mitigation areas, but if such accidental damage shall occur, the soils are to be stockpiled on site used to restore it, etc., Does that resolve your concern?

Commissioner Clark: Yes.

Chris Greenlaw: Mr. Chairman, if you will repeat that?

Chairman Block: Wetland soils are not to be disturbed, if by construction activities or in the creation of mitigation areas, but if such accidental damage should occur, they are to be stockpiled on site, the soils are to be stockpiled on site, and used to restore the wetlands back to its original improved naturalized condition.

Commissioner Paskewich: Thinking out loud here, accidentally by excavation? Trying to read this and determine what kind of an accident could occur.

Chairman Block: Well they are not supposed to be disturbing it, and they get disturbed. It's either by intent which is one aspect of enforcement, or it's an accident. We have other penalties that we describe if it's intentional.

Chris Greenlaw: Mr. Chairman, the intent was you know, a catastrophic event, you know, we can't condition for catastrophic events but we can use other words for catastrophic events such that we have the condition and it's a tool in your tool box such that you can tell them hey, we want you to utilize these soils elsewhere. One of the things that Alan brings up, that we conditioned for and that is to prevent any accidental mobility or actions in the wetlands, and what we have asked for is condition B, no construction or installation work shall be performed on the site until the Town Engineer has received written certification from a Connecticut licensed land surveyor that:

- a. No clearing has occurred on the site except in accordance with the approved plan. B. All soil and erosion control measures are completed in accordance with the approved plan, and C. this is an important one that we added, All wetland areas 150 feet from the wetland boundary have been staked out by a Connecticut licensed land surveyor. The buffer area perimeter will be pinned and placarded with a plan "record" copy submitted to the town. So that we know that it was done, how it was staked out, that it is in the field, and this is prior to work commencing in collaboration with the two other notes above to try to prevent those types of action.

Commissioner Paskewich: I'm just not familiar with stockpiling wetland materials.

Chairman Block: No, no, no, let's say for example that you had your two hundred year flood and we've had testimony that on the western side you have a diking area that is holding back some of the wetlands in two, okay, that doesn't, there is a little dike area, there is testimony that there is a little breached area where there is a trickle as a high overflow, remember? So we have a two hundred year flood during the development process and that dike is washed out and there is a whole mud flow down, that's accidental damage. Who knows why it happened. They are supposed to pick up that dirt and put it back in and replant and improve the wetlands.

Commissioner Paskewich: It sounds like a natural occurrence. Not something done by construction activity.

Chairman Block: That's true and they are not supposed to be any where near the wetlands so it should not be happening at all, but this is belt and suspenders time.

Commissioner Paskewich: But this says by construction activity.

Chairman Block: Yes, so let's say that it occurred because one of the blastings that was authorized shook up the dike and weakened it.

Commissioner Paskewich: Okay, that's a good analogy.

Chairman Block: Who knows? But the point of the matter is that, they are not supposed to be working in that area, if something that they do affects it, they have to pick it up and put it back and fix it. That's what the condition is saying.

Commissioner Paskewich: I would say more than stockpiling on site, by some standard of restoration.

Chairman Block: Well that is going to be up to the naturalist that they have on site for the other conditions.

Commissioner Paskewich: What naturalist?

Chairman Block: Chris, the conditions contain provision for them to be, what do you call it, a DOC, DEC? Developer's Ecological Consultant. DEC. That would be his purview to specify what has to be done to restore, repair that wetlands. That's in G.

Chris Greenlaw: We can always remove that standard condition if you don't want it.

Commissioner Clark: Oh no, I like the amended version.

Chairman Block: Let me say at this time I think that it is rather apparent that nobody is inclined to deny the permit out of hand. So therefore why don't we start back in on the conditions and run through them, one by one and then see if we can come to the end of this.

Chris Greenlaw: Mr. Chairman, perhaps a recess to allow the Commissioners to see the conditions to the conditions, the conditions that I have added, that I'll point out are K through P which are our standard conditions and in addition to that there has been pursuant to their request there were revisions, there's other items as well, perhaps ten minutes to read through these, make some notes.

Chairman Block: If the Commission is inclined to do that, then a motion.

Commissioner Clark: I move that we take a break.

Chairman Block: Ten minute recess, it's 8:50, we'll be back here at 9:00 p.m.

Meeting resumed at 9:05 p.m.

Chairman Block: We'll come back to order please. Going on to discuss the conditions, I assume that it is appropriate them all and hopefully come to the end of this process. So looking at page one of the suggested conditions, which are our standard conditions, in the version of February 26, 2013, does anybody have any comments or concerns about items 1-13? Last chance, we go on to revised conditions, A-D.
Anybody, anything?

Commissioner Paskewich: On D, it states written certification signed by a Connecticut licensed professional engineer, is that out of house?

Chairman Block: I'm sorry, which one did you say?

Commissioner Paskewich: D.

Commissioner Clark: Tiny D. Top of page two.

Chairman Block: Oh, it's A, sub d.
What's your question on that?

Commissioner Paskewich: Written certification signed by a Connecticut licensed professional engineer confirming that all required drainage improvements have been installed in accordance with the approved plan(s). Who would we be referencing as the Connecticut licensed professional engineer.

Chairman Block: The person that the applicant has hired. He has to meet that qualification in order to be able to meet the certification.

Chris Greenlaw: Mr. Chairman, this is a standard condition that we also utilize for Planning and Zoning and this isn't mealy mouthed by any means, this comes to our office and what we require by that, when we want a certification, they are also going to certify, we require, we reject a lot. Up front we tell the developer that in the end, at the end of the day, we want to know, we want a certification from the licensed engineer in Connecticut that not only was he there and witnessed certain operations, we want to make sure that they utilized the materials, we want to know that if they are putting in pipe there is proper compaction, so we request this in writing from him, to be stamped with his certification, and upon our receipt, we want to know that he was actually in the field and had a presence to verify that these things that went in the ground, whatever structures they are, infrastructure were in accordance with the plan and contract documents. That's actually language that I look for.

Commissioner Clark: Chris, can I back up to thirteen, I believe there were some specific recommendations with REMA, once you crush the rock, you want to use it on site, so excess is just in the eye of the beholder? All excess native soils, materials and natural debris generated from land prep, I know there was something where they wanted you, so you could retain the biota living in the dirt, they wanted you to dig up the dirt, set it aside and only leave it in a pile for a little time which seems like, yeah, that's going to happen, but that was one of the conditions that REMA suggested. I don't know where that would fit or where you would put that in your conditions. It almost sounds like you'd have to take all of REMA's recommendations and turn them into conditions. And I think this is one where I say, does that over ride any of the REMA conditions or what has worked for us all the time as number 13 have to have more detail because of REMA's recommendations. I know that was one specific one, native soil that came up was supposed to not be left to dry because everything in it would die, it was supposed to go right back, as soon as you could put it there.

Chris Greenlaw: You are correct on two accounts. This is a standard condition, and it is not a recommendation based on what REMA had. This is more for, it's our standard condition, why? Because when we have these sites in town we want to make sure, it's a standard condition for Inland Wetlands because we want to make sure whatever excess material they have, it will be a lot cheaper if they said, hey, what's this big area over here that's a hole of water, and take that excess soil and dump it there. So we want them accountable for knowing, do they have a balanced site, at the end of the day what are they going to do with their excess soils, and if it becomes a question, we want them first to have an answer knowing that hey, if I have a site that is going to generate excess material, I know I'm removing it from the site. I'm not going to try to errantly fill in any buffer or regulated wetlands, what have you. That's why that condition is in, but certainly if you want a condition, any additional conditions, specific to REMA's suggestion on the stockpile areas in addition to, after you have gone through the notes, GN1 and 2 respectively we can certainly add a condition.

Commissioner Clark: And would that be the place, because it's about soils and materials.

Chris Greenlaw: Actually it would come under revised conditions, after our standard conditions.

Chairman Block: I think also the question is the definition of the word excess. Because under your proposal there are supposed to utilize the native soils to the maximum amount....

Commissioner Clark: REMA, not me.

Chairman Block: REMA, yeah. All right, on Capital D, on the second page, typographically there is an extra A, detention capacity of all proposed pond areas, cross out the A.

Additional condition E, sub a. The developer shall allow the Town to participate in the selection, does that mean that we have veto right or not, what degree of participation is supposed to occur? Do we name somebody and they can say yes or no, to utilize them?

Commissioner Paskewich: Additional conditions, E, sub a,

Commissioner Zelek: Might I suggest that the wording be changed to the developer shall allow the town to participate in the selection and approval of....

Chairman Block: All right. In E, sub b. on the first line, determine the location, instead of and, it should be of at least six seismic stations. Anybody have anything else on that second page?

Commissioner Clark: I have a question, Chris? How does this connect to the document that we were given, the blasting plan? Is that in here and referred to specifically?

Chris Greenlaw: Yes.

Commissioner Clark: I mean, it must, there was so much information here, but...

Chris Greenlaw: This, if you will, is like an additional rider so those things, I think when we went through the blast plan notes a couple of weeks back there were additional questions and comments and I tried to incorporate that into these modifications rather than go in and try to refine those notes with their consultant. I said, I think we can achieve this right here, one time with a condition.

Chairman Block: Page 3,

Chris Greenlaw: To that point, E blasting conditions, small d, specifically there were some questions in the blasting notes and I specifically state, refer to notes on Plan Sheet GN1, specifically conditions 11, 14 and 15 and in addition to those we've added this whole paragraph here that is directly talking to the particle velocity and vibration readings and so on and so forth, so that's exactly to what it speaks to directly, those comments under the blasting notes on that sheet.

Commissioner Clark: And the statement about ceasing and desisting when water is located, is that in these conditions?

Chris Greenlaw: We're getting to that.

Chairman Block: On page 3, the first paragraph which is part of d from the prior, in the second line, at the end of the line, it says, right after the brackets, as blasting migrates closer to the wetlands, you have, will provide, and would suggest changing that to, to provide referenced support of a peak particle velocity frequency vibration threshold.

Chairman Block: Anybody have anything on the third page? Page 4, anything on page 4?

Commissioner Clark: Well then we passed the blasting stuff and I still don't see the blasting about water.

Commissioner Paskewich: F small g. The ecological consultant shall engage a hydro geologist for purposes of assessing any interference with an aquifer during the construction of the project.

Commissioner Clark: Okay, so we are moving onto the ecology, so you are putting the ecology guy in, but would the ecology guy be standing there when we do all the blasting?

Attorney Boorman: Let me address that. The reason that it was moved was because Commissioner Zelek at the last meeting or submitted prior to the last meeting a recommendation to expand it so that it wasn't just for blasting, that it was also for the entire project so it's moved over to that section to reference the fact that we are not limiting it to the blasting part but it's for the entire project, therefore you have the ecological consultant that is involved and that would include the blasting section.

Commissioner Clark: I don't believe that the sentence, and that's why I didn't see it, I don't believe that the sentence in G states as forcefully as the original condition did that, I'm not seeing a picture of, oh, I blasted something, there's water, stop. That sentence, you wouldn't know that it had anything to do with blasting, taking it by itself, it just says any interference, but I think I'd like to see it include blasting. I'd like to see the word blasting in there, or cutting, or.....

Commissioner Paskewich: It's a good point that you make, it says during the construction of the project which could be at any time, but again, you make a good point.

Chairman Block: I would suggest that the original discussion was that the discovery of a flow in, during the process of drilling the boor holes for the actual blast, so that's at the very onset if you will, of the construction process, it's not prior to it, depending on what you consider construction. The, you know, if you want to make it clear that you are talking about preliminary to the blasting, then perhaps that's the verbiage to be used rather than construction.

Commissioner Clark: The blasting is the first thing that happens, right?

Chairman Block: Well in this case, are you saying that the hydrologist is going to look at the affect of the blasting and see if it interferes with an aquifer, or are you say while they are drilling the bore holes to load the explosives, if they hit water, he has to get involved.

Commissioner Sadil: That was the intent, Chairman Block when we reviewed it that evening, that when they go down, and hit something, because we had talked about water, some times it's water that they use to cool the drill, but if there was an upwelling, that was my remembrance.

Commissioner Clark: This to me doesn't make the point the way the previous, and I like the way that it's inclusive, I like that part of it, but I feel that it's, the fact that this was originally, this need was generated by the fact that we were blasting, and that's where the most likely damage to an aquifer would occur, to be it made the point much more obviously, strongly.

Commissioner Paskewich: Would "all phases" help at all?

Chris Greenlaw: If I could just interject, originally that was the idea, originally as Commissioner Sadil indicated, that we were at the point of blasting, later on it was brought up by Commissioner Zelek that hey, time out here, what if any activity, whether it be involved in excavation, you know,

whatever type excavation activity it is, be it earth removed and there is evidence of an aquifer, so to incorporate all those activities, if you have it very pointed as we thought at first, yes, we're going, you don't want to put all your eggs in one basket. If you have a hydro geologist to follow around the drill machine, we thought it would be more prudent to have the ecological consultant which we are going to have a hand in picking, selecting, that's going to be there from day one, because we know the ecological consultant has to be there anyway because we want them to verify, we want them to do all the other things that they are going to do, verifying the base line, they are going to have monitoring stations to put up, so if they are kind of the eagle eye on, ok, some drilling is going on, there is some water, what type of water is this, and you know, if we have a professional that understands ground water, that we relied on here as an expert to determine what ground water is, to bring it to a point where someone brings to their attention, we're seeing water in a great abundance, they can call in a hydro geologist. Now that ecological consultant is going to be there from before any activity happens, during drilling operations, during excavation operations, and post operations, so we thought it would be best to get that all encompassing person as part of the condition.

Chairman Block: May I suggest that, after the second line, F sub g, second line, construction of the project brackets starting with the drilling of the blast holes, close brackets.

Commissioner Clark: It's not only that, but the second sentence doesn't, it doesn't say, I think it has to say, the developers, if any interference with an aquifer is discovered the developers consultant shall immediately cease and desist. It doesn't say that.

Attorney Boorman: It says, the developers consultant shall immediately cease and desist construction activities until such time as the developers consultant and the Town review and address the report from the hydro geologist.

Commissioner Clark: But, it says, the consultant shall engage a hydro geologist for purposes of assessing ant interference, but then the second sentence doesn't refer back to such interference.

Chairman Block: So what you are saying is, if such interference with an aquifer is determined, is found, the developer shall immediately cease.....

Commissioner Clark: Evidence. You can't quite say that you have the interference, because it is up to the hydro geologist to determine

Chairman Block: Okay, if such evidence of interference.

Commissioner Clark: If you have such evidence that this might be occurring, and then the ecologist calls in the hydro geologist, to confirm that this is indeed a problem, rather than assuming that the problem exists right from the get go.

Attorney Boorman: So what language do you want?

Chairman Block: The developer if such evidence of interference with an aquifer shall be found, the developer shall immediately cease and desist construction activity, blah, blah, blah, blah.

Commissioner Clark: That's all right. It's the right idea. I'm going to have to see it all typed out first, but I think interference is all encompassing, I'm hoping that all encompassing should be good rather than too narrow.

Chris Greenlaw: And I used the term construction there, in a broad sense, but certainly if you want in parentheses, i.e. drilling, blast holes, excavation, etc., then it's set, now we have all the concerns packaged.

Commissioner Clark: I like that because blasting is preparation, blasting is destroying, construction is building.

Attorney Boorman: We just don't want to make it a list that is limiting, because the term construction is probably used, we don't want to limit ourselves, this is a construction project, we want it from the beginning to the end, if you want to give some examples by not limiting the rest of it, then we can put language in for that.

Chairman Block: In F, sub a, Monitor the obligate species, I would suggest inserting wetlands, the obligate wetland species.

Attorney Boorman: I'm sorry, would you repeat that?

Chairman Block: F, sub a, insert wetland in species. The same thing in b.

Commissioner Igielski: I don't see the word specie in b.

Chairman Block: No, but it says protect wetland animals and plants.

Attorney Boorman: So what do you want to put there?

Chairman Block: Wetlands

Commissioner Clark: Well, species has to be obligate to something.

Chairman Block: It's obligate to the wetlands.

Attorney Boorman: So do you want obligate wetlands, animals and

Chairman Block: In b, I don't think you need.....

Commissioner Clark: I don't know. The word that is very limiting is the word obligate. So I guess the question is, what animals and plants are we trying to, does this ecologist want to look at the whole, as long as we are allowed to have this condition, since it does not speak to the physical characteristics of the wetlands, and I'm not being funny, I just want to be sure that it is okay. I think the ecologist is more looking at, and we can use the word habitat, because that's in there, I think they are more looking at the habitat and the inter reaction. I think to actually say the obligate species, that actually limits it a little more. Are they going to look at the birds, are they just going to look at the amphibians that are in the wetland, I don't know what the intent of this is. I'm not really trying to direct it, I'm just saying, what are we looking for here, obligate species that might only determine the health of the wetlands, or, the health of the whole habitat that is surrounding, that the wetlands are part of, the plants, the swamp cottonwoods, and specifically these.

Chris Greenlaw: I believe the Chairman is correct, we should say obligate species because one of those is the salamander and that was used as the baseline species from which all the studies and comparisons and research has pointed to, so I think it pertinent to use obligate wetland animals.

Commissioner Clark: Okay. Do we want to define the ones that we are looking at?

Chairman Block: No, that's limiting us. In G, sub a., Developer's ecological consultant is to prepare an I.T.M.P. plan for project utilizing a recognized facility to perform all appropriate lab testing, and that I think should be done pursuant to the requirements of F, number F above. Because the Turf Management Pesticide Plan is not i.e. for the turf, it's for the wetlands, plants and animals as well, so the consultant that is going to be doing this testing and so on in order to protect the wetlands again.

Commissioner Igielski: How would you want that section stated?

Chairman Block: That he's.....

Commissioner Igielski: Start from the word developers.

Chairman Block: Developers ecological consultant is to prepare an I.T.M.P program pursuant to F above for the project utilizing a recognized facility to perform all testing. Now, one thing I don't understand, so I'll ask Chris, is sub b through h, all relating back to the I.T.M.P. or these other plans and conditions?

Commissioner Clark: May I say something? In the REMA memo, January 24, 2013, the term I.T.M.P. is not used and I believe in fact his recommendation is not to use any pesticides, I believe that is one of the recommendations from the original REMA report, so he uses the term I.P.M, which is Integrated Pest Management which doesn't, you can manage pests without using pesticides, using biological controls, so I think the term I.P.M. is more appropriate to the direction that REMA wanted us to go in, and he is just using, turf management is one item, and I.P.M is another. Does that make sense.

Chris Greenlaw: It does, but you want to offer yourself to have them explore all of the options. So....

Commissioner Clark: Correct, because the word pesticides should really not appear in this document.

Chairman Block: Yes it should.

Commissioner Clark: Yes?

Chairman Block: Yes, because you want them to control the use of pesticides. If you leave the word out, then they are not controlling them, they are uncontrolled.

Commissioner Clark: That's interesting.

Chairman Block: So you want to have it in there so that they can have, if you will, a limitation or a prohibition upon use of various pesticides. You want to have that as part of their (inaudible) to say what can or can't be used.

Commissioner Clark: Then we're not using the REMA recommendations here.

Chairman Block: You are using it in so far, for example, what happens if some pest comes along, which is of dire consequence to the physical characteristics of the wetlands, and it requires the use of some specific toxic chemical. Are you saying that the wetlands cannot be protected because they can't use it.

Commissioner Clark: I think that likelihood is not likely. Integrated Pest Management could include pesticides, you're trying to exclude pesticides by using the word pesticide.

Chairman Block: Exactly. I'm trying to exclude or limit it's use because I can envision a situation in which there isn't a biological control, or which the biological control has greater ramifications than using a chemical. I don't know, I don't think it is going to be common. But I don't want the chemicals to be unsupervised. I want somebody to be responsible to say whether or not that's the best way of dealing with the problem, and if it's not, then you can't do it.

Commissioner Clark: But you are still using the term pesticides to the exclusion of Integrated Pest Management.

Chairman Block: No, I'm not excluding Integrated Pest Management at all, and if you want to include that as a recommended treatment.....

Commissioner Clark: I'm not recommending it, REMA is recommending it.

Chairman Block: Well then, if you want to add it as a more desirable treatment process, by all means do it. I'm just saying that I don't want pesticides to be uncontrolled.

Commissioner Paskewich: Small d, under G, refers to the D.E.C. will specify chemicals, (herbicide, pesticide and fertilizer) for variety, application availability, so it sounds as if we are leaving it up to an ecological consultant that is certified as an ecological consultant to make those decisions.

Commissioner Clark: An ecological consultant hired by the home owners association, not necessarily an ecological consultant that we brought into their recommendations.

Attorney Boorman: The ecological consultant is hired in consultation with the Town of Newington, if you go back to F.

Commissioner Clark: Do we just select him and that ends our involvement with him or her?

Commissioner Paskewich: I think we discussed that earlier, not tonight, we went over that in earlier meetings.

Attorney Boorman: Maybe we should go back and finish Kathy's thought, if she has the intention to part G, to add in addition to I.T.M.P. then maybe we should talk about what we want to see next time in that part of the condition.

Commissioner Clark: I definitely want it to say I.P.M. someplace as an alternative because that's what REMA.....

Chairman Block: Well, what if you do this, the developers home owners association to provide a copy of an integrated turf management pesticide plan to the Town Engineer to demonstrate the protection of the wetlands.

Commissioner Clark: But the problem is, if you use the term, integrated turf, well, if you don't say integrated pest management, you're talking about a whole different science. Integrated Pest Management is not pesticides.

Attorney Boorman: Can we ask Chris to take away from this discussion and go and take a look at the REMA report and supplement it with language that makes sense the next time we bring it up,

because I think what you are saying is that you want to refer back to the REMA and be specific about what his recommendation was, and there Chris can look specifically at I.T.M.P. versus I.P.M.

Commissioner Clark: Great, and it was the memo of January 24, 2012, REMA's memo by e-mail.

Chairman Block: I think we can go further by saying that your concern is to limit the use of chemicals and toxins to be introduced into the wetlands. Am I correct in that?

Commissioner Clark: Yes, but I also want to make the point that if we were to approve, some of the conclusion is based on the fact that they would be using REMA's specific recommendations which were, you know, no broadcasting or foliar applications of insecticides, fungicides or

herbicides, I mean, that's what it says. Targeted short term treatment and, I can't remember what natural control they were proposing, but there were multiple natural controls that they were using to avoid pesticides at all.

Chris Greenlaw: There were. They proposed milky spores as a predator to grubs rather than chemicals, items like that.

Commissioner Clark: Exactly, and that is the direction that we are going and I think this is not the same, this whole condition to me does not incorporate, or the spirit of, or the actual reason, and I think again, if we chose to approve or deny, some of it is based on assumptions that this is going to be followed, and that means no pesticides, which is what it says. I think Mr. Logan's conclusion that yeah, he thinks the critters are going to okay, is based on the adoption of this program, and if you say this program is okay, which is not the same as this program, then our conclusion is, could be altered.

Attorney Boorman: It's my understanding that the conditions in G all came from Logan's report, am I wrong about that?

Chris Greenlaw: We have to verify that because your primary concern is the reference to the pesticides, you want totally eradicated and you know, it's kind of, it's a double edged sword, because if pesticides are going to be used, you want to plan for it, so if you exclude it, I want to look at some wording, because at the same time, if for some reason you have to use pesticides, well, you want an expert to weigh in on the amount, the type of broadcast and those items.

Commissioner Clark: Although I don't object to it as much in the small d under G, as I do in the introduction to, you have G, where it says provide copy of integrated turf management and the plan, so the original plan should be integrated pest management, then you might come up with a problem down the road, and that's where d, small d, would come in, where it says the ecologic consultant will specify chemicals and then you throw the word pesticide in there so it's there somewhere, rather than it being the over arching idea to try to manage this community in a more natural way, and in an earlier session I was skeptical that landscapers existed in this area who were going to comply with that kind of idea. I was concerned about that, that, where were you going to find somebody that was that green, so to speak, and I think we want to have that really important included, demonstrated in our condition so that we're looking for those people, or they are looking for those people right from the get go.

Chairman Block: I'd like to repeat my recommendation for the lead in for G, at the end of Town Engineer, to give the purpose, to limit the use and introduction of toxins into the wetlands. That's why they are developing this plan, that's why they are going to have preferences for the

integrated pest management that you are calling for. They are trying to limit the use and introduction of toxins into the wetlands. How does that strike you?

Attorney Boorman: To limit the introduction.....

Chairman Block: To limit the use and introduction.

Commissioner Clark: Limit is a pretty broad brush.

Chairman Block: No it's an intent. You want to limit it, you want less rather than more. At this point, I'm not going to say an overall prohibition because I don't know what the issue is that they are trying to deal with.

Attorney Boorman: I'm sorry, to limit the use and introduction of.....

Chairman Block: Toxins.

Going back to F and H in the other place, I'm still advocating it be twenty-five years rather than five.

Attorney Boorman: We haven't gotten to H yet.

Chairman Block: I know, but we passed it in F.

Commissioner Clark: You want F a, to say twenty-five years and monitor it for twenty-five years instead of five years.

Chairman Block: Correct.

Attorney Boorman: You are again going to have to support it on the record.

Chairman Block: Well I think we can.

Attorney Boorman: And if you can, then the next time you come I just ask you to bring that reference, like we will do for everything else that we are talking about, no matter what you do, deny or accept with conditions, bring the reference from the record that you believe supports these kinds of things for the next time.

Commissioner Zelek: Regarding Item F, I'd like to change some wording to be a little more specific.

Chairman Block: Which one?

Commissioner Zelek: Item F, capital F, so since the two wetlands that we are most concerned with here are both classified as vernal pools, I'd like the expert that is selected to have a field of expertise in the study of vernal pools.

Chairman Block: Can't we leave that to the Town's determination that....

Commissioner Zelek: Well, as we have seen throughout this public hearing, there are ecologists and then there are ecologists. There are those that may on paper look fine, and they may not serve us well and then there are others who specialize in study of vernal pools, and since we have two of them here and they are a focus, I think the ecologist should have a background in vernal pools.

Chairman Block: Well how about in F, instead of consult with the town, consult with the Conservation Commission, and that means that the name would be brought to our attention, and we can make a determination as to whether or not the person recommended is acceptable to you.

Commissioner Clark: But how would we know that unless they, in other words that would be after the fact rather than seeking someone with that expertise to begin with. Again, I think Jeff has made a good point in that we have heard a lot of testimony from one of the ecologists before it became clear that, for example, the vernal pool was actually thought to be degraded and interpreted the way another ecologist thought was not appropriate. I think it's an excellent idea to tell you the truth, there are people with special interests and that's the main thing, we're trying to protect here, there's a lot going on, but it's really the vitality of the vernal pool that all of this is designed to protect.

Chairman Block: Then how about after ecological consultant we put in brackets, versed in vernal pools?

Commissioner Paskewich: Versed is.....

Commissioner Zelek: I would like it to say, field of expertise is vernal pools.

Commissioner Clark: Field of expertise includes vernal pools, that's it, do you like includes?

Chairman Block: Includes or primarily.

Commissioner Zelek: Primarily.

Commissioner Paskewich: That's pretty selective, I, to me it's you know, wetlands certification is a high end, supported by you know, how are you going to pick and choose a person? Are you going to speak to them individually and.....

Commissioner Zelek: There are numbers of them that are referenced in the materials.

Commissioner Paskewich: So who is going to choose them, that's my point, who is going to choose this person?

Attorney Boorman: Again, the condition indicates that the applicant is going to choose in conjunction with discussion with the Town for purposes an ecological consultant that is satisfactory. I really think you need to be somewhat careful about limiting this, you might be getting something that you don't want. I don't have a problem with the limitation of vernal pools, but I don't think you want to go any further than that. I think you leave it at that and just move on and let it be understood that you are going to have Town input on this. Town staff is what I would think you would put. If you really want to bring it back to the Commission I suppose you could look to do that, but I would think you would want Town staff to do the nitty-gritty.

Commissioner Clark: By town, do we mean the Town Engineer?

Attorney Boorman: That was supposed to be there, didn't make it on this one.

Commissioner Paskewich: Does the town have a designated wetland agent?

Chairman Block: Chris and Craig.

Commissioner Paskewich: So Chris is a designated wetlands agent?

Attorney Boorman: No.

Chairman Block: Well Chris isn't yet.

Attorney Boorman: He's going to be, but he isn't yet.

Commissioner Clark: And he's taking a course in vernal pools.

Attorney Boorman: He's been a little preoccupied. We discussed that.

Commissioner Clark: I think that's a great credential. He's uniquely qualified as, he's not just a town engineer, but he's a town engineer who has taken a class in vernal pools.

Chairman Block: In G, sub h., the H.O.A. shall be responsible for all management of the landscaping. I'd like to suggest adding, within the project, so it's within the entire development.

Commissioner Clark: Does this prohibit the home owners, I think Attorney Regan was quite adamant that the home owners would not be doing any of their own, this does not prohibit the home owners from doing, and I think that was Attorney Regan's intent because that was our concern was that home owners would do their own lawn, throw their own pesticides, plant their own invasive species, and I don't....

Attorney Boorman: Under the language for the home owners association, the exclusive responsibility for the landscaping is with the home owners association. If you want to put additional language in here that makes it more clear that the owners are not to be involved in that.

Commissioner Clark: I'd like to.

Chairman Block: So G, sub I, the H.O.A. shall prohibit any landscaping activities by the members.

Commissioner Clark: I think landscaping too, I don't think of mowing my lawn and throwing pesticides on it as landscaping, I think of that as maintenance.

Chairman Block: Any yard maintenance activities?

Commissioner Clark: Yard maintenance is one way to put it. I'm sorry, Mr. Boorman, could you say what you were saying right before, where is that provided for?

Attorney Boorman: It will be in the declaration and then by-laws will follow that too.

Commissioner Clark: The thing that we will never see until it is way down the road? Again, that is one of my big issues, which is irresolvable, but I think it's really important to me that this be in here, that they do not touch anything, because that is what Attorney Regan said to us, and I think that is one of the most important conditions in this entire document.

Chairman Block: Okay, so i is going to be H.O.A. shall prohibit yard maintenance activities by the property owners.

Chris Greenlaw: Mr. Chair, you might want to add the landscaping.

Chairman Block: Landscaping and/or yard.
Anything with H?

Commissioner Clark: Twenty-five years.

Chairman Block: Yes, I said that.

Commissioner Clark: When it says, then to plan, I think I don't understand what that means.

Chairman Block: Where is that?

Commissioner Clark: The sentence of A, Developer's ecological consultant to prepare a water quality monitoring program for both during construction and post for, well now it's twenty-five years, then...

Chairman Block: Cross out then.

Chris Greenlaw: Mr. Chair, what we are establishing is that the full name, the reference, and then from now on it will be known as REMA, that's why it's in parenthesis.

Chairman Block: No, I'm not talking about that, I'm talking about the REMA after the parenthesis.

Commissioner Clark: Might I state that you are using, you're referring to the January 24, 2013 memo entitled Guidance, blankety-blank, and that's the same memo that I wanted us to reference in G, it might make sense to have the language be the same in G and H because we are referencing the same document.

Attorney Boorman: That's fine.

Commissioner Clark: And that's where I got the term, I.P.M. instead of I.T.M.P.

Attorney Boorman: Got it. Referred it. As I say, Chris will go through that and look to come up with what works, what's in that memo and then an explanation of what it is he has.

Chairman Block: Okay, on page five, first line, cross out per and make it by electronic meter and then, as to: specific conductivity, redox which I don't understand, potential, pH, etc., What is redox?

Commissioner Sadil: Reduction oxidation, the build up and break down of a compound, redox reduction oxidation.

Commissioner Clark: Should I be a nit-picker and say pH should be little p big H?

Chairman Block: Okay. Again, on b, make it twenty-five years. Chris, in K, I made several suggested editing of the Conservation easement, how are they going to be submitted to the applicant for consideration and incorporation?

Chris Greenlaw: I would suggest as conditions. Your specific changes?

Chairman Block: So there is going to be a sub 1 to K, or whatever that letter becomes, amendments, draft amendments to be submitted to applicant for review and incorporation.

Attorney Boorman: Be submitted to applicant?

Chairman Block: Because it's his conservation easement so he has to accept it.

Attorney Boorman: He's the one that is going to prepare it and propose it.

Chairman Block: Okay, so that's why we are sending him the changes for him to appropriate.

Attorney Boorman: You are talking about the changes to it.

Chairman Block: Yes.

Attorney Boorman: I'll have to check on that one. I just also want point out that we are up to K on this one, any document proposing a Conservation Easement is to be submitted to the Town Engineer for review, and shall be recorded on the town land records, I think the rest of it, by the applicant prior to the commencement of any activity on the site, is not appropriate because that Conservation Easement may not be finalized until well after construction has already commenced.

Chairman Block: Shouldn't that also say for review and approval?

Attorney Boorman: Yes.

Chairman Block: And shall then be recorded.

Commissioner Igielski: Doesn't it have to be executed by the Town Attorney? How does that work?

Attorney Boorman: Yeah, it's going to have to go through a whole process. A Conservation Easement is a acquisition of an interest of land, so it has to go through a whole process with the Town Council.

Commissioner Igielski: So is there better terminology?

Attorney Boorman: We'll work on this, this is the first time I've seen this, a bunch of these were plugged in later and I didn't see them, we'll work on this language again, but just so you know, a Conservation Easement with the Town is, does require Town Council action. We'll work on that.

Commissioner Clark: I just have a question about the snow storage. It states provide locations of proposed snow.....

Attorney Boorman: Do you have a number for us?

Commissioner Clark: It's I. It just occurred to me that it's asking them to provide locations, but if you look at the plans, where would you put the snow, and if we had a snow storm like our recent one, could they, because so many of our cul-de-sacs.....

Chris Greenlaw: I think the intent at the time, you were not at the meeting, it was Commissioner Paskewich that identified that one of the bio-swales or bio-retention areas was in close proximity to the road, and that was exactly his concern that, given significant snow fall that they would say, hey, this is close to the road, maybe we can store it here, in this low land depression, therefore we improvised that, well, we didn't improvise, we included this as a comment.

Commissioner Clark: I did read that, but partly, now in my mind, looking at the plan, where would you put the snow. We know where you don't want to put the snow, but is there a specific place that if you recommended....

Chris Greenlaw: By definition of the road, the snow shelf is that area outside the road that is allocated for utilities and snow itself. So the intent here was to protect the one bio-swale or bio-retention area off the side of the road.

Commissioner Paskewich: Number six.

Commissioner Clark: Does the guy who comes and shovels the snow know what a bio-retention, bio-swale area is and where it is located?

Attorney Boorman: Look, it's really not up to the guy who shovels the snow, it's up to his boss to tell him, so this condition means that the boss is in charge of that stuff, so if there is an error that is made, and it's found, it has to be rectified, but the general direction is, don't put them in these areas and he tells the guy where to put the snow.

Commissioner Sadil: I was just thinking, the Town salts during storms, something that the plow comes through with salt, could that get infiltrated, if they put in on a bio-swale, put it somewhere, could that be a negative acting.....

Chris Greenlaw: Mr. Sadil, if you can imagine that plan that we had at the last meeting, I believe and we allocated, remember we talked about watersheds and we talked about watersheds that contribute to the wetland areas two and three, and the first thing that the consultants discussed was, okay, we want to take the water that is possibly going to be compromised by the road salts and whatever, and they are going to take that water and convey it through pipes and their treatment train to their storm water areas and eventually it would outlet to the Russell Road area. It is separate, so that area that they took out of the watershed, they had to depict in a certain color, remember, we had the watershed that was red, there you go, you've got the map, and what they had to demonstrate, they had to make up for that area that they were...

Commissioner Sadil: Right, they were trading.

Chris Greenlaw: So your concerns is valid, and it's a very good concern, so that is what they had to achieve, and that's why they had to balance that water budget because they had taken areas out of the watershed area and they had to make up for that.

Chairman Block: Chris, in N, what changes are we talking about and what treatment process?

Chris Greenlaw: Again, this was a standard condition and what I did was, I kind of added this just recently because I thought it was in concert with a lot of the recommendations that we had, and this is one of those that I discussed earlier on, that it might be a little bit redundant but I thought it was to the benefit of this application and I put it in there.

Chairman Block: Is it the treatment of water intended to enter the wetlands? Is that what we are talking about?

Chris Greenlaw: Yes, because this is your standard condition for the Inland Wetland Commission, that's why we have it, kind of in our arsenal if you will, of comments. That's the intent.

Chairman Block: Okay, so it's the treatment of waters entering the wetlands.

Commissioner Clark: And Chris, does this just speak to the construction period of time, or moving on to when it's a home owners association?

Chris Greenlaw: Which comment are we speaking.....

Commissioner Clark: N, it's called the applicant, which by, would eventually become the home owners association.

Chairman Block: You want to add after applicant / HOA?

Commissioner Clark: Yes.

Chris Greenlaw: Mr. Chairman, can you repeat the revision that you had proposed?

Chairman Block: In N?

Chris Greenlaw: Yes.

Chairman Block: If any changes should occur in treatment of water entering the wetlands, by either process, temperature or volume, of discharge the applicant/HOA shall immediately notify...

Attorney Boorman: Do you want the Commission there, or do you want....

Commissioner Clark: I would think the engineer.

Commissioner Igielski: I would suggest that now that it is no longer a typical condition, change it from Commission to Town Engineer.

Chairman Block: You know, that brings up another issue, should it be the Town Engineer or should it be our agent?

Attorney Boorman: We talked about, I recommend Town Engineer.

Chairman Block: Just wanted to make sure.

Commissioner Clark: So the water, where would you find this water? Wouldn't this be something that would be more the purview of the ecologist because I would think that the ecologist has to be involved in this, right here, because who is checking this out?

Attorney Boorman: I would say that it is redundant to the whole section on the ecologist, again, this is something that was just kind of added. I mean, you may see it gone from here and put into another section.

Chairman Block: That brings another question, is the ecologist going to be a permanent position for this development?

Attorney Boorman: No, there's no such thing as permanent positions.

Chairman Block: Right, so how long is he going to be on board. Are we saying again, twenty-five years?

Attorney Boorman: That's what you are saying. Again, I don't recommend you even consider doing that, but if that is the direction that you are going, that would be another factor as to whether that is a reasonable condition or not.

Chairman Block: Well at this point, I'm inclined to protect, to defend it. Anybody else have anything, we're down to O and P.

Commissioner Sadil: I have two items Mr. Chairman. What exactly is dark sky guidelines? They mentioned that in the memo of January 24th, 2013, it goes through the.....

Attorney Boorman: You're off the conditions, you're talking about something else?

Commissioner Sadil: Yes.

Chairman Block: Wait, is that the memo that is referenced in the conditions?

Commissioner Sadil: Yes it is.

Chairman Block: And you're asking about a terminology within the memo?

Commissioner Sadil: Another topic within that memo, there may be a condition, there may not, I'm just bringing it to your attention, but they talk about something, minimize artificial night lighting within the residential community to protect the insects food supply of birds and invertebrate, bio-diversity following the dark sky guidelines.

Chairman Block: The dark sky guidelines is a reference to the situation where artificial lighting at night attracts and alters the ecological activities of animals and insects. So for example, lighting in ball fields, attracting swarms of moths, and therefore the insect eating animals congregate around them, and so on, so.....

Commissioner Sadil: What's your feeling on that? I'm not saying I want it, but he mentioned it.

Commissioner Paskewich: I'm hearing you, I wonder if that lends to the LID low impact design elements that people have spoken to that are now being addressed in the town for future developments.

Chairman Block: Are you saying that Planning and Zoning are looking into this?

Commissioner Paskewich: Town Council addressed it a few meetings back. I was there.

Chris Greenlaw: Alan, just for the record, they referenced it as per the dark sky, they used that direct terminology?

Commissioner Paskewich: No, they referenced LID and getting into, looking at a consultant to survey their concerns.

Chris Greenlaw: I can speak to that. That's a collaborative effort between the Town Planner and the Town Engineer and I can speak to you quite a bit on this actually. But they are going to have a consultant come in and the low impact development, do we want to talk about this right now, it does not have anything to do with the dark sky, but that is something we can talk as a side bar, it's not related to that.

Chairman Block: Let me suggest at the moment that, and again, correct me if I'm wrong, but I don't remember one word of that topic being discussed by either the applicant or REMA.

Commissioner Clark: It's in here, it wasn't discussed.

Commissioner Sadil: Section C of said memo on the 24th of January, page 7.

Attorney Boorman: What I would suggest, seeing that it is almost ten after ten at this point, and I see once again we are beginning to nod off, if you would like to discuss that or propose a condition that you could draft one, send it to the Engineer and go in that direction, and we can review it on Thursday, our last night.

Commissioner Sadil: Okay, last item, same memo, they mention about controlling invasives, when you have a construction site, at the edge of the forest, that transition area, about controlling these invasives, that would go back I think to Section G.

Chairman Block: I would suggest again, as the Attorney said, why don't we rough out a draft for a G, sub j, as to obligations to control or eradicate invasive plants.

Commissioner Clark: And that one does specifically speak to the qualities of the wetlands.

Chairman Block: And DEEP said also to do that.
Since we now have a significant but short shopping list of alterations to the conditions to be presented to us on Thursday, it appears that we are not in a position to have a vote tonight. Are we in agreement on that?

Attorney Boorman: I suggest to you that Chris is going to try to make those changes and get them out to you before Thursday night's meeting so you will have an opportunity to review, and I just want to remind everybody that Thursday night is the drop dead date, so you have to do something Thursday night. The last thing I would ask you to do is go back and remember what the Chairman said the last time, he was anticipating that you might vote tonight, I didn't think there was a chance of that happening, but I think his comments were well spoken in terms of regardless of what you want to do, as I said earlier in the meeting, if you are going to deny, or accept or accept with conditions, please come prepared to speak on the record what your rational is, and base it on the stuff that we have talked about. It's very important for the record to reflect that.

Chairman Block: I also like to impose a condition on us all, that if you are going to submit something to Chris, some language or another, that you do so before noon tomorrow. He's got enough on his plate.

IV. PUBLIC PARTICIPATION ON A NON-AGENDA ITEM

Chairman Block: Again, non-agenda, and two minutes please.

Ron Corcoran: I'm a resident of the south end of Hartford and I've been following the proceedings here for the last two, two and a half years, but I just wanted to reminisce just a bit on several events that I can refer to. About fifteen years ago, there was a development along a power line over in Manchester area which ran right through the community college campus. Within the confines of this corridor there was rain pools, some swampy areas, some standing water, and it was what anyone could refer to as perhaps a wetland. Well, anyway, a development started adjoining one side of this corridor, and I would say that there was about an eighty or one hundred units of homes. I think the majority of them were single family and of course as the

families came in, the kids in those families became more familiar and more active in the area. As I noted, over the first year, and continuing on for probably four or five years as I frequented this area, hiking, whatever, I noticed the kids, during the summer season when schools were out, the kids would come in, with fishing poles and buckets, empty buckets, shovels, whatnot, rakes, sometimes with parents and sometimes without. As a result, these kids would start digging in the bottom of the water in those rain pools and dump half filled buckets of mud and material that was basically the bottom part of this area, and they were looking for tadpoles and salamanders and all sorts of amphibians, you name it. As a result when they were dumping this material on the side of the water area, these creatures or critters as you refer to them, would be evident, my point being that in this case there was a great deal of damage being done to that wetland area, so I can recall this and I thought I would speak to that at this point.

Secondly, over, there is a well known cemetery just down the road, Cedar Hill Cemetery, I think maybe all of you have heard of that, now about fifteen years ago, somewhere in that area, the cemetery personnel decided that they were going to remove approximately fifteen acres of standing woodland and make that into saleable grave sites. They proceeded to do that over maybe two years, two and a half years, well prior to that, I can attest to the fact that along a town road, a paper road that goes from Maple Avenue up due west toward the quarry, so called. Along that area there, in the spring were usually woodcock that were present, displaying and nesting in the ground areas. Since the invasion by the people who had removed all the woodland, the fifteen acres that I'm referring to, there hasn't been any sign of any woodcock that I have seen since then. That is a species that sort of vanished from that area. Thirdly, there is an area along the edge of the quarry, so called extension of Jordan Lane. Last fall, Tilcon saw fit to send bull dozers in there, and they bulldozed and widened the roadway, about thirty feet. In the process, any bushes or greenery along the edge of it were absolutely demolished. It's just an appearance of a scrapped out, as a result of that, there has not been, prior to that and during this process last fall, any wintering robin population in the area, previously there had been I would say as many as twenty to thirty robins wintering in that area, and they would access the winterberry, the sumac in particular, and that's no longer in existence. I just want to remind you, in your decision in your musing that you would perhaps consider what might happen if there were other areas of this type and there was an impact of human encroachment. Thank you very much.

V. COMMUNICATIONS

None

VI. ADJOURNMENT

Commissioner Sadil moved to adjourn the meeting. The motion was seconded by Commissioner Paskevich. The meeting was adjourned at 10: 20 p.m.

Respectfully submitted,

Norine Addis,
Temporary Recording Secretary

